

**ENSURING HOMELAND SECURITY WHILE FACILITATING LEGITIMATE TRAVEL: THE CHALLENGE AT AMERICA'S PORTS OF ENTRY**

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**FIELD HEARING**  
BEFORE THE  
COMMITTEE ON HOMELAND SECURITY  
HOUSE OF REPRESENTATIVES  
ONE HUNDRED TENTH CONGRESS  
SECOND SESSION

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## **ENSURING HOMELAND SECURITY WHILE FACILITATING LEGITIMATE TRAVEL: THE CHALLENGE AT AMERICA'S PORTS OF ENTRY**

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**Thursday, January 3, 2008**

**U.S. HOUSE OF REPRESENTATIVES,  
COMMITTEE ON HOMELAND SECURITY,  
*El Paso, TX.***

The committee met, pursuant to call, at 10 a.m., at the Chamizal National Memorial Theater, 800 South San Marcial Street, El Paso, Texas, Honorable Bennie G. Thompson [Chairman of the committee] presiding.

Present: Representatives Cuellar, Carney, and Davis of Tennessee.

Also present: Representatives Reyes and Rodriguez.

Chairman THOMPSON. The Committee on Homeland Security will come to order. The committee is meeting today to receive testimony regarding "Ensuring Homeland Security While Facilitating Legitimate Travel: The Challenge at America's Ports of Entry," and we are happy that all of you are here.

Before we begin, I'd like to pause in remembrance of El Paso's Sheriff Leo Samaniego, who passed away on December 28, as most of you know. So if I might for just a moment of silence in respect for the passing.

At this time I'd like to acknowledge my friend and colleague from El Paso, the Chairman of the House Permanent Select Committee on Intelligence, Representative Silvestre Reyes. It is at his request that the Committee on Homeland Security is holding this hearing today here in his congressional district. Representative Reyes is a recognized leader on border issues, and you are fortunate to have him representing you in Washington, DC on this issue which I know is so vital to your community.

I would also like to recognize another area Member present here today, Representative Ciro Rodriguez. Representative Rodriguez represents an enormous stretch of the border from outside El Paso to past Eagle Pass, and his constituents face similar situations with respect to growing wait times at ports of entry. He is an excellent advocate in Congress on their behalf, and I thank him for joining us here today.

Neither Member sits on the committee, but they do have a great deal of insight to share on the subject matter of today's hearing. They have actively participated consistent with the rules and practices of the committee. We're pleased to honor their request.

I now ask for unanimous consent to allow Representative Reyes and Rodriguez to sit and question the witnesses at today's hearing. Without objection, so ordered.

Today we'll hear testimony from Government witnesses about the challenges they face in keeping our Nation secure while also facilitating legitimate travel and trade throughout ports of entry. We will also hear testimony from local stakeholders who are directly affected by increasing wait times at bridges in this growing border community. I look forward to the discussion because it is increasingly apparent that there is a growing problem in America's ports of entry.

Last year America witnessed the well-publicized Andrew Speaker incident. A patient with a very serious strain of tuberculosis was able to re-enter the United States through a northern border port of entry, though he should have been detained. We know that the Speaker incident was not an isolated one.

In addition, a recent Government Accountability Office report revealed that thousands of unauthorized individuals entered the United States through ports of entry in a single year. At the same time the lines to enter the United States continue to get longer, which El Pasoans and residents living along both our Nation's land borders know all too well.

It is important to note that the overwhelming majority of Customs and Border Protection officers and other personnel at our ports of entry are dedicated individuals working under extraordinarily difficult conditions for relatively low pay.

We need more of these personnel, and they need better working conditions and additional training to do their jobs more efficiently. We also need to expand and improve aging infrastructure at our ports of entry and build new ports to accommodate growing demand.

Unfortunately, we cannot fully address all of these issues overnight. It is my hope, however, that today's hearing will help us continue to work together to better secure our Nation's ports of entry and improve the lives of those who call border communities home.

Again, thank you for having us here in El Paso.

If you have your cell phone, please put it on silent. It would help us out a whole lot. We have people who really have something to say to us today, and we really don't want to be interrupted. Thank you very much.

The Chair now recognizes the gentleman from Texas, Mr. Reyes, for opening statement.

Mr. REYES. Thank you, Chairman, and welcome back again to El Paso. We appreciate the support that you have shown our border community for three of us here that represent border communities. I especially wanted to welcome our colleagues Congressman Carney and Congressman Davis to the border. They have expressed a desire to know and see more of our border communities, so we're pleased that they are here as well.

Over the last several months, both northern and southern border communities have faced increased wait times at the international ports of entry, and recent reports estimate the times have escalated upwards to 2 or 3 hours. This problem must be solved. The Federal

Government must create a workable system that provides security while allowing for the free flow of trade and commerce.

Two major issues that have surfaced are infrastructure and staffing. According to the General Services Administration, the Nation's land ports of entry are faced with over \$5 billion in deficiencies, which we will need to prioritize in order to make it a safer and more secure border. This figure, by the way, is at the current construction allowance, close to 40 years if we do not address it in an expedited fashion. In addition, the bridges are extremely under-staffed and therefore resulting in Customs and Border Protection's inability to properly staff the inspection booths around-the-clock.

On an average day in fiscal year 2007 El Paso saw over 95,500 crossings, both travelers and cargo, between what is one of the largest binational metropolitan regions in the world. While the number of crossings this past year has decreased in comparison to years past, the Nation has seen an increase in bridge wait times. We must solve this issue as quickly as possible.

In my recent meetings with El Paso Central Business Association and other business organizations in my district, it was clear that the economic impact of the delays on the business community is very disturbing. Waits at land border ports have forced some businesses to spend enormous amounts of money to transport their goods via air in order to meet their deadlines. Thousands of individuals travel across the international boundaries daily, supporting El Paso's economy, and with the holiday season just recently passed, the need for an immediate solution to these delays is ever more important.

In Washington, DC I continue, with collective efforts, to inform our colleagues and others about the concerns and frustrations that we are experiencing in border communities like the El Paso-Juarez area. We must find a workable solution.

Over the last several months we have all worked closely with some of our witnesses here today, in particular a gentleman that wasn't able to be here because we had to reschedule this hearing, but Commissioner Ralph Basham. I wanted to express my personal appreciation, as well as GSA administrator Lurita Doan, who is here this morning. Thank you so very much for rescheduling so you could be here with us this morning.

When Secretary Chertoff traveled to El Paso last August, I expressed the urgent need to solve the emerging problem for families and businesses in our area while at the same time understanding and not wanting to compromise our Nation's security at the border. The Department of Transportation Secretary Mary Peters recently visited here in the El Paso region, and while she was here I asked her to examine and determine how her Department might be able to work with us and other agencies to decrease international commuting times for both passengers and cargo.

Mr. Chairman, both as a former Border Patrol agent and in my current capacity as Chairman of the House Permanent Select Committee on Intelligence, safety and security are my priorities, and by no means are we looking to seek a solution to the long waiting times by relaxing security. However, all of us need to understand that as border residents, myself included, I firmly believe that

there are appropriate ways to allow for goods and people to cross our borders without creating the long extended delays.

In this next session of Congress, I intend to introduce legislation for a multiyear proposal to focus on our ports of entry. You and I have had a number of discussions, and as always, I appreciate your support as well as the support of my colleagues from the border. So with that, Mr. Chairman, I deeply appreciate you being here and holding this very important hearing for our community.

I should tell people here that last week you and I were in Portland, Oregon, which gives you an idea of the schedule that my colleague, Chairman Thompson, has to keep, and that we all keep, in order to address the many concerns of our committee. So thank you for being here, and thank you for holding this hearing.

Chairman THOMPSON. Thank you very much.

The Chair now recognizes the gentleman from Texas—I'm sorry—recognizes Mr. David Davis of Tennessee for an opening statement that he might have.

Mr. DAVIS of Tennessee. There's a lot of history between Texas and Tennessee. Thank you, Mr. Chairman. I appreciate you holding this hearing today, and I'd like to thank our witnesses for being here, as well.

It is important to evaluate the Department of Homeland Security's efforts to improve security at the ports of entry while facilitating legitimate trade and travel. Customs and Border Protection officers are the first line of defense against terrorists, criminals, and inadmissible aliens seeking illegal entry into the United States, and it is critical that we continue to support their mission.

CBP is responsible for inspecting travelers seeking to enter the United States by air, land, and seaports of entry. In fiscal year 2007, in addition to processing millions of travelers and vehicles, CBP officers seized more than 820,000 pounds of narcotics; arrested more than 25,000 suspected criminals; interdicted more than 170,000 inadmissible aliens; and conducted 1.5 million agriculture interceptions. CBP also expanded the Container Security Initiative, launched the Secure Freight Initiative and improved the C-TPAT program. By the end of fiscal year 2000, CBP deployed over 140 radiation portal monitors throughout the Nation's ports of entry. While some progress has been made, more still needs to be done to protect our Nation's borders and reduce our security vulnerabilities.

During today's hearing, I would like to hear from our witnesses on several key issues, including: Progress in improving the physical infrastructure at land border facilities, participation in trusted traveler programs, Border Patrol recruitment and retention, and CBP's effort to respond to the GAO's recommendations. GAO recently highlighted significant vulnerabilities in traveler inspection procedures and noted that while CBP has developed broad strategic goals, it continues to face challenges in developing measures to link performance with these goals and objectives. I would like to hear from CBP on what steps they can take to improve the inspection process and performance measures.

I look forward to the testimony today and hearing about the status and plans for improvements to our land ports of entry. I would

like to thank the witnesses for being here and express my appreciation to the Chair.

Chairman THOMPSON. Thank you very much.

The Chair consents to allow an opening statement from Mr. Rodriguez.

Mr. RODRIGUEZ. Thank you, Mr. Chairman. Let me begin also by thanking you and Congressman Reyes for having this opportunity to have this hearing. I want to personally thank you also for making the trip and going to the border yesterday, Mr. Chairman, and meeting with the members of—the city mayor, go out to the border, meeting with the sheriff, go out to the border, meeting with the chief of police throughout the border, and I think that those hearings and those meetings that we've had hopefully have been well-served in terms of educating ourselves in terms of the needs.

I would also like to welcome the other Members of the committee here to the part—the 23rd Congressional District is also part of El Paso, and I have the distinction of having one of the largest districts in the country spanning from here to Eagle Pass and to San Antonio and back to El Paso. It's a district that has entry ports all over the region, and I'm real pleased to announce that we will soon be having another entry port here in El Paso in the new bridge.

But let me also add that one of the reasons that we've asked to have this hearing is because we get local complaints from our constituents in terms of the waiting periods, and we have gotten conflicting information in terms of the number of hours that people have to wait. We also note, for those of us that live on the border, that things are never going to be the same, but at the same time we need to see how we can maximize that effort that when we're on the border—I know that I used to just go across and eat. I cannot do that anymore, because I know of the waiting periods and the times, and that has a direct impact economically. So this is why this hearing is important, so we can begin to look at striking that balance between the issue of security, which is essential and that we have to continue to work on, but also commerce because that's also essential, terrorists, who want to hit us and impact us economically, and we've got to make sure we don't do that to ourselves.

So I'm certain that we will hear from the panelists on border security and how we can co-exist with the flow of traffic in assuring that we have security but also ensure that traffic can continue to come forward.

I serve on the appropriations Homeland Security committee, so I want to thank you for allowing me to sit on the committee on Homeland Security authorizing committee. With that I also know that the committee is going to hear about the plans, the projects, the personnel recommendations, additional inspection booths, additional lanes at current ports of entry. I look forward to the hearing from everyone's perspective, and I hope that we leave today with a constructive understanding of the issues that confront us, not only here in El Paso but throughout the border.

As I mentioned, I also represent six ports of entry, both here in El Paso, one in Presidio, one in Val Verde and two in Maverick County. Every one of these crossings has come to a degree of increased waiting times, but also the issues have also had a direct

impact on not only that particular economy but in the entire region. I believe that this is a very difficult task to specifically tailor solutions to individual bridge's problems without even having concrete empirical data for the volumes of commercial passersby and the traffic that we have.

For these reasons I filed legislation, along with Senator Hutchison, that will authorize a detailed analysis in the study of the volume of traffic patterns of commercial and passenger vehicles at international land ports of entry in both the northern and southern borders. Additionally the legislation would document the effects of waiting times on the economy, especially the economies of border communities. These studies would be conducted by the U.S. Department of Transportation and Commerce in conjunction with the Department of Homeland Security. This legislation is co-sponsored also by both Congressman Cuellar and Congressman Reyes, and I want to thank them for their allegiance. It's also supported by the Border Trade Alliance and the Texas Border Coalition.

Finally I would also like to mention a project currently underway here in eastern El Paso County, which will greatly improve our current situation here in El Paso, and that's the Tornillo-Guadalupe New International Bridge. It is an integral part of any solution designated to relieve the regional waiting times and traffic congestions at our existing ports of entry. This project is a reality. It will be completed well before most other plans, and hopefully it will relieve some of the congestion here in El Paso.

Back in March 2002 President Bush stood here in El Paso, Texas, less than 6 months after the attack of 9/11, and stated in front of a large crowd: "The commerce that takes place between Mexico and Texas and the United States is good for both countries, and therefore we must work to make sure our border is modernized so that the commerce that takes place can move more freely and can be expedited so that it makes it easier for people to have jobs and find work."

We have to continue to push forward on that agenda. I know that it's been 6 years since those comments were made, and we have moved a long way. We need to continue to move further.

Mr. Chairman, once again thank you for coming to El Paso and thank you for the work that you continue to do for us. To the entire committee, thank you very much.

Chairman THOMPSON. Thank you very much.

Other Members are reminded that under committee rules opening statements may be submitted for the record.

I'd like to now welcome the first panel of witnesses. Our first witness, Mr. Thomas Winkowski, was appointed Assistant Commissioner, Office of Field Operations at U.S. Customs and Border Protection in August 2007. In that capacity, he manages an operating budget approaching \$2.5 billion, directs the activity of 24,000 employees, and oversees programs and operations at 20 major field offices, 326 ports of entry, 58 Container Security Initiative ports and 15 fleet clearance stations. Kind of busy fellow.

Our second witness is Ms. Lurita Doan, Administrator, U.S. General Services Administration. Administrator Doan was sworn into her current position on May 2006, making her the first woman to serve as chief executive of GSA. Until 2005 Ms. Doan was presi-

dent, CEO and sole owner of a surveillance technology company she founded in 1990.

Our third witness, Mr. Richard Stana, is the Director of Homeland Security and Justice Issues at the Government Accountability Office. During his 31-year career with GAO, he directed, reviewed on a wide variety of complex military issues in headquarters, the field, and overseas offices. Most recently he directed GAO's work related to law enforcement, drug control, immigration, Customs, corrections, court administration and election systems.

Without objection, the witnesses' full statements will be inserted in the record.

I now ask each witness to summarize his or her statement for 5 minutes, beginning with Assistant Commissioner Winkowski.

**STATEMENT OF THOMAS S. WINKOWSKI, ASSISTANT COMMISSIONER, OFFICE OF FIELD OPERATIONS, CUSTOMS AND BORDER PROTECTION, DEPARTMENT OF HOMELAND SECURITY**

Mr. WINKOWSKI. Well, thank you very much, Chairman Thompson and Chairman Reyes and distinguished Members of the committee. I'm pleased to be here today to discuss U.S. Customs and Border Protection's role in building a more secure yet more efficient border.

Congressman Reyes, I would like to begin by thanking you for your commitment and leadership on this important issue. On October 4, 2007, you spent nearly 3 hours of your valuable time working with CBP senior managers on possible solutions for addressing wait times at land border ports of entry without compromising our Nation's security. Again, I would like to thank you very much for your support, Congressman.

I would also like to express my thanks to the men and women of CBP who work on the front lines every day defending this great country. CBP is responsible for protecting more than 5,000 miles of border with Canada, 1,900 miles of border with Mexico, and operating 326 official ports of entry. Each day CBP inspects more than 1.1 million travelers, nearly 94,000 of those travelers coming through the port of El Paso.

Though the vast majority of people that CBP officers interact with are legitimate travelers, there are those who seek to harm us. Annually CPB intercepts in excess of 21,000 fraudulent documents and over 200,000 inadmissible aliens. During fiscal year 2007 alone CBP officers arrested over 25,000 individuals representing murderers, sexual predators, drug smugglers and individuals with links to terrorism. Within the last week officers at ports of entry were able to apprehend multiple individuals with felony warrants for homicides.

Yet in our mission of protecting the homeland also comes the responsibility for facilitating legitimate trade and travel. These are CBP's twin goals: Safeguarding the American homeland by fostering our Nation's economic well-being through lawful international trade and travel. It's a difficult balancing act, but it is one we take very seriously.

There are those who say CBP is our choke point for commerce and tourism; we are impeding business and travelers. Others say

we are not being thorough enough in checking for terrorists, drugs and illegal aliens. We know that if we are going too far in either direction, we can slow down our economy or take the chance of letting a potential terrorist into the country. We continually look for smarter, more efficient ways to secure the border, from increased use of technology to inspectional processes to enhanced document requirements.

Putting our progress in perspective, before 9/11 there were no radiation portal monitors at our U.S. ports of entry. Today we have over 1,000 radiation portal monitors Nation-wide, which mean 100 percent of the cargo coming from Mexico and 91 percent entering from Canada.

We have trusted traveler programs like FAST and SENTRI that allow members who have been vetted by CBP to use dedicated crossing lanes and enter the country faster yet more secure. With the Western Hemisphere Travel Initiative, or WHTI, we will further improve traveler processing and the Nation's security. Right now our officers review as many as 8,000 different kinds of identification. Beginning on January 31, travelers will be required to present specific types of documentation regarding their identity and citizenship.

As we move to its full WHTI implementation in June 2009, RFID-enabled identification and citizenship documents will allow CBP officers to quickly obtain vital information from our databases, including previous traveler violations, outstanding felony warrants, and possible links to terrorism. WHTI results in America having a smarter, more efficient and more secure border.

Finally I would like to mention an issue that concerns all of us: Infrastructure at our ports of entry. The rapid evolution in CBP's mission, coupled with the age of these facilities, has stretched our physical resources well beyond what they were designed to handle and the dire need of modernization and expansion. We have evaluated our ports of entry Nation-wide and developed a strategic resource assessment which prioritize our modernization expansion needs. CBP and GSA are working together to streamline the current planning and construction process in addition to expediting virtually needed repairs to those locations.

Let me conclude by saying there are no quick fixes to these problems. We live in a world vastly different from the one we knew of on September 10, 2001. We must work together to maintain a delicate balance which will keep our economy strong and our Nation secure.

Thank you very much, Mr. Chairman.

[The statement of Mr. Winkowski follows:]

PREPARED STATEMENT OF THOMAS S. WINKOWSKI

JANUARY 3, 2008

Good morning Chairman Thompson, Congressman Reyes, and distinguished Members of the committee. I am pleased to be here today to discuss how the Department of Homeland Security (DHS), particularly U.S. Customs and Border Protection (CBP), is building a more secure and efficient border, while continuing to facilitate the flow of legitimate trade and travel.

I would like to begin by expressing my thanks to the men and women of CBP who work on the frontlines everyday, protecting this Nation. Since its creation in 2003, CBP has made significant progress in effectively securing our borders and pro-

tecting our country against terrorist threats. Sometimes we forget to recognize the efforts of these officers and agents on the frontlines and everything they have accomplished.

The creation of CBP, which established a single, unified border agency for the United States, is a profound achievement, and our responsibilities are immense and challenging. CBP is responsible for protecting more than 5,000 miles of border with Canada, 1,900 miles of border with Mexico and operating 326 official ports of entry. Each day CBP inspects more than 1.1 million travelers, including 327,000 cars and over 85,000 shipments of goods approved for entry; processes more than 70,000 truck, rail and sea containers; collects more than \$84 million in fees, duties, and tariffs; seizes more than 5,500 pounds in illegal narcotics; and seizes more than 4,400 pounds of agricultural items and pests at ports of entry. CBP also intercepts over 70 fraudulent documents a day and refuses entry to almost 600 inadmissible aliens, that translates to over 21,000 fraudulent documents and more than 200,000 inadmissible aliens each year. During fiscal year 2007 alone, CBP officers at our land, sea, and air ports of entry arrested 25,693 individuals, representing murderers, sexual predators, drug smugglers, and individuals with links to terror.

During fiscal year 2007, the Port of El Paso, which includes the crossings at Stanton Street, Ysleta, Bridge of the Americas, and Paso Del Norte, processed over 34 million travelers, 14.3 million vehicles, and nearly 759,000 trucks. CBP officers at these ports intercepted 4,552 fraudulent documents, seized over 193,000 pounds of narcotics, and arrested 2,830 individuals. Our agricultural specialists intercepted 5,246 pests that could threaten our Nation's food supply and we collected nearly \$215 million in fees, duties, and tariffs.

CBP continues to increase its work force, hiring 2,156 new CBP officers, for a net increase of 648 officers, and 340 agriculture specialists, for a net increase of 151 specialists in fiscal year 2007. CBP has also significantly enhanced its ability to provide timely and actionable intelligence to its operational customers, and enhanced its ability to support its mission partners through information sharing, by successfully piloting a field intelligence capability and organization called an Intelligence Coordination Team (ICT). Planned deployment of ICTs, and an even richer capability called Intelligence and Operations Coordination Centers (IOCC) will provide CBP and its mission partners an integrated, end-to-end intelligence capability.

Although 6 years have passed since September 11, 2001, that day remains a vivid memory to all of us. CBP is keenly aware of its responsibility to remain ever vigilant in protecting the homeland. We understand that the threat is ever present and the risks ever-changing. For this reason we continually seek better and smarter means to ensure the security of our border, by enhancing all areas of our operations including technology, document security, infrastructure, inspectional processes, work force, and training of our officers.

From a strategic and operational standpoint, CBP has significantly increased our ability to execute our anti-terrorism and traditional missions at our Nation's borders more effectively than ever before, thereby enhancing the security of the United States, its citizens, and the economy. We continue to perform our traditional missions, including apprehending individuals attempting to enter the United States illegally; stemming the flow of illegal drugs and other contraband; protecting our agricultural and economic interests from harmful pests and diseases; protecting American businesses from theft of their intellectual property; regulating and facilitating international trade; collecting import duties; and enforcing United States trade laws, all while executing our primary mission of preventing terrorists and terrorist weapons from entering the United States.

I am here before you today to discuss how CBP is creating a more secure border—executing our priority mission of preventing the entry of terrorists and terrorist weapons—while efficiently balancing facilitation of legitimate trade and travel. I will focus on our traveler inspection procedures, physical infrastructure, staffing and training of our officers, and the performance measures we use for determining our successes and areas of improvements at the ports of entry. I will outline for you today CBP's advancements over the past 4 years, and the challenges we face every day.

#### TRAVELER INSPECTION PROCEDURES

##### *Technology and Document Security*

Border security is the cornerstone of national security, and if we are to protect our homeland from those who mean us harm, we must use all the tools at our disposal. These tools include the use of smart technology and improved document security, which will make our ports more secure and our inspectional processes more robust and efficient.

DHS, in partnership with the Department of State (DOS), is working to secure our homeland by strengthening our ability to identify accurately all persons—U.S. citizens and potential visitors alike—before they enter the United States. We are accomplishing this through instituting secure documentation requirements for entry into the United States. Our approach to implementing the Western Hemisphere Travel Initiative (WHTI), which represents both a statutory mandate and 9/11 Commission recommendation; will increase security while also facilitating trade and the flow of legitimate travelers.

WHTI is necessary to strengthen our security but will also facilitate the flow of legitimate trade and travel into the United States. Currently, U.S., Canadian, and Bermudian citizens entering the United States across our land and sea borders are not required to present or carry any specific set of identity or citizenship documents. Not surprisingly, this significantly complicates our ability to verify that people are who they say they are in a matter of seconds. In an era when we, as a country, were less concerned about the security threats posed by persons seeking to enter or re-enter our country, a mere verbal declaration of citizenship, if credible, could suffice. Now, both the administration and Congress recognize that this practice must end.

The institution of a travel document requirement and the standardization of travel documents are critical steps to better securing our Nation's borders at the ports of entry and increasing the facilitation of legitimate travelers. Currently, travelers at our land and sea ports of entry may attempt to demonstrate citizenship and identity by presenting any of thousands of different documents to CBP officers when attempting to enter the United States, creating a tremendous potential for fraud.

Exploiting vulnerabilities to gain entry to our Nation is critical for any terrorist to plan and carry out attacks on our homeland. As the 9/11 Commission's Final Report states, "For terrorists, travel documents are as important as weapons. Terrorists must travel clandestinely to meet, train, plan, case targets, and gain access to attack. To them, international travel presents great danger, because they must surface to pass through regulated channels to present themselves to border security officials, or attempt to circumvent inspection points".

Our layered security strategy involves identifying and interdicting terrorists as early as possible—if not before they enter our country, then at the port of entry. As populations increasingly mix and extremists recruit native-born youth and converts, travel documents become even more critical in identifying terrorists. Travel documents and travel patterns can provide our CBP officers at the border with terrorists indicators—sometimes the only advance indicator the Government will receive.

DHS must be able to capitalize on our border inspection process. We must be able to verify the identity and citizenship of those who seek to enter the United States. Through its requirement that individuals carry secure documents, such as a passport or an alternative document designated by the Secretary, WHTI will greatly reduce the opportunities for fraud or misrepresentation of one's true identity. Advanced technology embedded in these travel documents, with the appropriate privacy protections and infrastructure, will allow DHS the ability, for the first time, to verify an individual's identity even before our officers begin to question them and to perform real-time queries against lookout databases. Full implementation of WHTI will allow DHS to focus even greater time and attention on each individual traveler. We have an opportunity to install an integrated secure land border system through WHTI and that opportunity should not be squandered.

The process for implementing WHTI in the land and sea environments will be a deliberate, phased, and flexible approach. DHS is proposing a transition period to ensure that U.S., Canadian, and Bermudian citizens will be able to obtain the documents necessary to satisfy WHTI. We recognize that 100 percent compliance will not occur overnight and we want to give travelers sufficient time to become accustomed to this new requirement. The practice of accepting verbal declarations of citizenship alone at our land and sea ports of entry will end on January 31, 2008. U.S. citizens and Canadian citizens will be required to carry a WHTI-compliant document or Government-issued photo identification, such as a driver's license, and proof of citizenship, such as a birth certificate. At a later date, we will implement the full requirements of the land and sea phase of WHTI. The precise date will be formally announced with at least 60 days notice to the public. This vital layer of security must be put in place as soon as possible, and not be subject to repeated delays and endless new and ever-shifting requirements. By delaying, through appropriations language, implementation of WHTI, Congress would prevent us from closing a vulnerability that can be exploited by terrorists and others who mean us harm. We must continue to advance to a smarter, more efficient, and more secure border that includes these document controls.

Also, under the auspices of WHTI, new facilitative technology will be implemented to assist in the efficient flow of legitimate travel. CBP is in the process of awarding a contract for the installation of infrastructure and technology required to read travel documents in vehicle primary lanes at land borders at the 39 highest-volume ports, which combined process 95 percent of travelers entering the United States through our land borders.

This technology provides significant advantages for our officers, while providing a clear benefit for the traveler: The document is read as the vehicle queues for inspection at the primary booth. In seconds, the system displays the traveler's biographic information, photo, and the results of checks against the terrorist watch list, National Crime Information Center (NCIC) database, and various law enforcement databases to the CBP officers. This enables CBP to enforce more than 400 laws from 40 different Federal agencies, without impeding traffic flow. The CBP officer can look at the results quickly and focus on the individuals in the vehicle—better for officer safety and faster, more effective processing.

CBP has used facilitative technology successfully in operations along our land border with Canada and Mexico since 1995. Through our Trusted Traveler Programs, such as NEXUS, SENTRI and FAST, CBP officers are able to expedite legitimate cross-border travel and trade. Membership in these programs currently exceeds 385,000. Our Trusted Traveler Program, SENTRI, has been very successful in El Paso where we have nearly 23,000 people participating in SENTRI, and the Stanton Street crossing is designated a SENTRI-only crossing.

#### *Inspectional Process*

CBP constantly and continually monitors our activities and operations in the field to identify areas that need improvement and to implement these improvements—whether they are policies or procedures and processes. After noting that there were weaknesses in our land border inspectional procedures, CBP directed our officers to increase the number of primary name queries being performed at the land ports of entry, consistent with our strategic goal to screen all persons arriving at ports of entry. The implementation of WHTI, through facilitative technology, and secure documents, will allow us to further raise our query rates through more efficient and expeditious screening.

Additionally, CBP developed a training module using actual land border videotape footage to be viewed by all managers and frontline officers in order to demonstrate the need for effective and thorough inspections. In conjunction with this presentation, CBP developed and implemented the land border primary inspection directive, which defines CBP policy regarding land border inspections. All land border officers received training regarding the policy and are required to take annual refresher courses.

CBP uses a layered approach to monitor and assess compliance of our existing inspectional policies and procedures. The Assistant Commissioner, Office of Field Operations, is responsible for policy oversight, which includes the formulation and implementation of guidelines and procedures. The Executive Director, Admissibility and Passenger Programs, is responsible for the formulation and implementation of the guidance to the field regarding traveler inspection and programs. The Office of Admissibility and Passenger Programs is also responsible for conducting reviews of enforcement actions and ensuring compliance with policies and procedures. The Office of Field Operations works closely with the Management Inspection Division to conduct self-inspection and compliance reviews. At any time, if an incident occurs, CBP's Office of Internal Affairs conducts a thorough investigation into the incident, ensuring that all responsible parties are held accountable for their actions and any necessary changes to procedures are made. CBP continually improves and expands its incident oversight capabilities, monitoring the actions of each of our ports of entry.

In the field, we require that the Directors of Field Operations (DFOs), who directly oversee ports of entry within their designated Field Office, monitor their ports' compliance with existing policies and procedures, and conduct audits and assessments of their ports. On the frontlines, supervisory CBP officers are required to undergo a mandatory 9-day course on supervisory leadership training before they can assume management positions.

#### PHYSICAL INFRASTRUCTURE

CBP has long recognized the need to improve our facilities and infrastructure to more effectively meet mission requirements. Modern facilities must address our dramatically changing border functions, increasing traffic volumes and staffing levels, and new and updated technologies and equipment. To that end, CBP has implemented a facility investment planning process, and capital improvement plan for

land border ports of entry. This process ensures that facility and real property funding is allocated in a systematic and objective manner, and is prioritized by mission-critical needs.

While CBP operates 163 land border facilities along the Northern and Southwest borders, CBP owns only 27 percent of these facilities. The U.S. General Services Administration (GSA) owns 58 percent, and leases the remaining 15 percent from private, State, or municipal entities. Unfortunately, the rapid evolution in CBP's mission coupled with years of neglect has left these vital assets in dire need of modernization and expansion. The average age of our facilities is 42 years old and they were not designed for our current operations. Since the terrorist events of September 11, 2001, CBP has been given the priority mission of preventing terrorists and terrorist weapons from entering the United States, along with maintaining our legacy missions. These heightened responsibilities are stretching our physical resources well beyond what they were ever designed to handle. The vast majority of these facilities were not built to incorporate all of the enhanced security features that are now present at our ports of entry, including Non-Intrusive Inspection technology (Radiation Portal Monitors, Vehicle and Cargo Inspection System, X-rays) and License Plate Readers. Our facilities are stretched to the limit.

GSA annually prepares a master list of public building construction projects—based upon the competing priorities among the various Federal tenants—for submission to Congress. CBP's priorities are placed on the GSA master list and presented to Congress, alongside a variety of competing projects, including courthouses and other Federal buildings, for authorization and funding through the Federal Buildings Fund. Historically, land ports of entry have received only a small percentage of the funds allocated through the Federal Buildings Fund. Since the creation of the Department of Homeland Security, land port facilities have received a larger percentage of the allocated funds, however even this increase has not been sufficient to keep pace with the pressures imposed by increasing demand for capacity, changing technology requirements, and the on-going need to reinvest in aging facilities.

#### WORKFORCE AND TRAINING

##### *Staffing*

We have no greater asset than our human resources. And we are committed to recruiting, hiring and developing a premier officer corps. Included in our 5-year strategic plan, the Office of Field Operations has a human capital initiative with an objective of building and sustaining a high performance work force. To achieve this goal we are currently working toward refining the recruitment and hiring processes, improving our retention capabilities, and enhancing our deployment and staffing processes.

We have developed a Workload Staffing Model (WSM) to better align resource needs and requests against levels of threat, vulnerabilities, and workload. By using the model we can adjust optimal staffing levels to changes in workload, processing times, new technologies and processes, mandated requirements, and threats. The staffing model alone does not determine how our officers are allocated; it is merely a tool to assist us in determining the correct allocation of officers at each of our land, sea, and air ports.

However, we are challenged with the continuously expanding demand for our services and new statutory requirements mandated each year, as trade and travel into the United States continues to grow. To address this extremely important mission of securing our Nation's borders, CBP management is often required to make our officers work mandatory overtime, sometimes on numerous days each week. CBP does not have the luxury of shutting down a port of entry to give officers time-off.

##### *Training*

We depend on the dedication and training of our front-line officers to conduct thorough inspections and make sound judgments. CBP has implemented numerous programs, initiatives, and trainings to build our officer corps, thereby enabling officers to more effectively respond to threats of terrorism, to better utilize intelligence information, to continue to develop skills, streamline processes, and enhance inspection operations. We have developed and implemented a comprehensive training curriculum for CBP officers and CBP Agriculture Specialists. This training curriculum includes basic CBP officer and CBP Agriculture Specialist academy training, as well as comprehensive, advanced, on-the-job, and cross-training courses. We continue to refine our training programs and validation tools to ensure that we have an integrated approach incorporated into existing systems. CBP continually strives to provide our frontline officers with additional training to help them perform their jobs

better. For example, CBP has extensive training in place for fraudulent document identification—both in the CBP officer academy and embedded in 40 additional courses.

To make the best use of our training time and resources, we train our officers when they need to be trained, and for the functions they are performing. This means that not every officer completes every cross-training module, but does receive the training needed to do the job he or she is currently performing. CBP has identified Field Training Officers to ensure that CBP officers are receiving the training they need to do their jobs, and that internal measures are in place to monitor and assess training needs and accomplishments Nation-wide. For example, CBP has an extensive database to record and track instances of training; and the database is searchable by individual, field office, and course of instruction. CBP is constantly reviewing and revising its training, as needed, in the ever-changing border enforcement environment.

Recognizing the complexity of our mission and the broad border authorities of our agency, we have established specialty functions and teams that receive additional focused advanced training. For example, counter-terrorism response teams were created for deployment within secondary inspection areas. These teams are provided with a new and intense training curriculum that teaches our officers how to detect deception and elicit information. We have established targeting and analysis units, roving teams, and prosecution units. Our enforcement officers receive additional advanced training to develop expertise in the questioning of individuals suspected of being involved with organized smuggling of aliens or drugs, terrorism, and document fraud.

#### PERFORMANCE MEASURES

In addition to the information I have outlined above, addressing the processes for our managers to review and monitor the inspectional processes being conducted by our front-line officers, CBP has also implemented a system to track our effectiveness. CBP conducts random compliance examinations. Essentially, these examinations involve random selection of vehicles and/or air passengers that ordinarily would not be selected for an intensive examination. By combining the results of these examinations with the results of targeted examinations, CBP is able to estimate the potential total number of violations being committed by the international traveling public. When CBP compares the results of the two types of examinations, we are better able to devise enforcement techniques without creating undue delay of law abiding travelers. Trends often tell us what message we need to send to ensure informed compliance by travelers who were unaware of our requirements. CBP believes that this compliance examination is a critical component of our ability to ensure that our processing procedures are effective. However, our reference measurement is a tool that was originally designed for the U.S. Customs Service, and to assess compliance with customs laws. We have recently made some additional improvements to the program to more fully align it with all functions and missions within CBP. We believe we will be better able to assess the apprehension rate of inadmissible aliens and other violations as we obtain more data from the realigned reference measurement program.

As I noted earlier, during fiscal year 2007, CBP revised the execution of this program and expanded the definition of the violation categories to include specific categories that relate to inadmissible aliens and agricultural violations. These new categories went into effect beginning on October 1, 2007, and the new measures will provide reliable, statistically valid performance measures for the traveler inspection program.

#### CLOSING

I have outlined today some of the ways CBP has strengthened our work force and enhanced our traveler inspection processes. CBP's frontline officers and agents will continue to protect America from the terrorist threat while also accomplishing our traditional missions in immigration, customs, and agriculture, all while balancing our enforcement missions with the need to effectively facilitate the flow of legitimate trade and travel. I appreciate this opportunity to testify before you and would be happy to answer any questions that you may have.

Chairman THOMPSON. Thank you for your testimony. I now recognize Administrator Doan to summarize her statement for 5 minutes.

**STATEMENT OF LURITA A. DOAN, ADMINISTRATOR, GENERAL SERVICES ADMINISTRATION**

Ms. DOAN. Good morning, Mr. Chairman, Ranking minority Member Davis, Congressman Cuellar, Congressman Rodriguez and Congressman Carney. I'm Lurita Doan. I'm the administrator of the GSA. I'm pleased to be back here in El Paso, and I'm here to discuss GSA's responsibility and our role in the planning, construction, renovation and maintenance of our Nation's land border ports of entry.

We've done a great deal to improve security, thanks to the efforts of our colleagues from DHS. Great and fundamental improvements in security are now clearly evident. But the President also charged us with the responsibility of facilitating the flow of legitimate trade and travel across our borders, and on that score, there is still much to be done.

Long lines of frustrated travelers at our land border ports of entry are simply not acceptable, and this is not the first view that we want our foreign visitors to have of this great Nation, and it's not the policy that the President outlined. I know that DHS and CBP are working hard on a number of complex technology programs, but I'm a bit of a contrarian within the administration, and I actually believe that sometimes some low-level solutions can also help. I believe that we need to build more capacity; specifically we need more inspection booths to allow CBP to conduct more primary inspections. We need more lanes and roads to carry additional traffic across the borders. Basically we need to build; we need to build where we can, what we can, as fast as we can.

We have the responsibility at GSA for building and maintaining our ports of entry, and I truly confess that in the past GSA has been slow to step up to that responsibility. GSA has been a bit too cautious in our approach, and we have sometimes gotten wedded to a bureaucratic process that is not sufficiently designed to get results, but we have made changes in the last 18 months.

We've completely retooled GSA's ability to design, build and maintain our ports of entry, and the result is that we can streamline, cut down the amount of time it takes to design those ports by almost half, and in the process we are also going to be cutting the cost for the taxpayer. In the last 18 months we've abandoned the Washington centric approach, where all the good ideas for improved designs can only come from inside the Beltway. Good ideas do not just reside in Washington. More importantly, State and local leaders know far better than almost anyone else what efforts could be taken at each and every port to help that traffic move more quickly across the border.

Our GSA port of entry program is now cited as a performance measure for GSA managers and employees alike, and it reports monthly to me on the progress that's being made. GSA is encouraging now every port of entry to immediately come up with ideas for practical solutions that would allow for the speedier flow of legitimate travel across the border. State and local officials are being asked to participate. After all, they best know what steps can be taken that would yield the biggest returns at those local locations. GSA cannot do all this on its own, but when local leaders and community stakeholders have developed practical, solid ideas that can

be immediately implemented, GSA is going to get behind those good efforts and we are going to push.

There are a number of ambitious projects for building new bridges and new ports of entry that GSA is also prepared to support. In particular, State and local leaders in El Paso, Texas, Laredo, Texas, Nogales, Arizona, Otay Mesa, California, Buffalo, New York, Detroit, Michigan, and several other ports of entry in need have developed plans that we are prepared to support.

GSA is going to encourage greater participation from the private sector, because infrastructure enhancements are a perfect opportunity for public/private partnerships. Our goal at GSA is to ignite a building boom at our Nation's port of entries to help alleviate the long lines of frustrated travelers. I've informed the President that GSA has made this commitment, and that this goal will be one of GSA's highest priorities over this upcoming year.

So what can you expect in the next few months? More. We are going to build what we can, where we can, as fast as we can. I visit our ports of entry in our meeting with local leaders at every place I go to, and this isn't just about money. The fact is that projects to build additional capacity at our port of entries have been hindered by excessively long bureaucratic processes and planning cycles that make it so hard to build and it takes too long to navigate them. We've made a lot of progress in delivering the new improvements to our schedules. We're going to be more aggressive about using the money that Congress has given us wisely. Third, we're going to go to the private sector and other American entrepreneurs and come and ask them for some of these innovative solutions that they've come up with. These good ideas need to be encouraged.

At the close of my testimony, I want you to understand that our determination and commitment to implementing the President's strategy of improving security while simultaneously expediting the free flow of legitimate trade and travel is not just about the funding. If you remember 9/11, when al Qaeda attacked us, they purposely chose to target our most prominent symbols of trade and prosperity: The World Trade Center. Bin Laden was very clear about what he said, that his goal was to provoke us into making silly decisions that would result in self-inflicted damage to our economy and to our free trade. Long lines of frustrated travelers at our ports of entry give bin Laden a victory that he does not deserve. We can do better and we can strike a blow against al Qaeda by making sure that our trade and our travelers move safely and freely across the borders without long delays.

That is exactly the policy that the President developed. It will take toil and tears and sweat to fully implement, but, Mr. Chairman, I want you to know that this is exactly what you can expect from the men and the women at GSA.

[The statement of Ms. Doan follows:]

PREPARED STATEMENT OF LURITA A. DOAN

DECEMBER 15, 2007

Good morning, Mr. Chairman, Ranking minority Member King, Members of the committee and Congressman Reyes. I am Lurita Doan, the Administrator of General Services at the U.S. General Services Administration (GSA). I am pleased to be back here in El Paso with the opportunity to appear before you today to discuss the chal-

lenges facing our Nation's ports of entry: the challenges of ensuring homeland security while facilitating the free flow of legitimate trade and travel. Toward that end, I will be discussing GSA's role in the planning, construction, renovation and maintenance our Nation's Land Ports of Entry (LPOE). GSA has the primary responsibility for designing, building, and maintaining our Nation's ports of entry, but we do not hold a monopoly on good ideas.

#### REASSERTING GSA'S LEADERSHIP ROLE IN BUILDING CAPACITY AT LPOE'S

As you well know, there is an urgent need in the Nation to rethink the way we plan, design and build our ports of entry. We need new energy and new ideas. Over the past 15 years or so, our trade across the borders has dramatically increased while the capacity of our LPOEs to handle this new traffic has not kept pace. To solve this problem, we are going to have to think differently.

As GSA Administrator, I am always on the look-out for best practices in solving complex problems. As an Administrator who views government through the eyes of an unabashed entrepreneur, I have admitted that I think GSA has been too timid in leading the effort to design and build additional capacity at our LPOEs. We should be bolder in setting an ambitious agenda. The American people are counting on us.

I have committed GSA to more boldly assume the leadership role to better design, build, expand, and maintain our Nation's LPOEs. Our goal is simple: to expand capacity and build new facilities where they are needed most, in a timely manner. The days of performing yet another study to tell us that we have a congested border are over. I have retooled our Border Ports of Entry team at GSA to allow for good ideas to come from people working and living along the borders. Not all good ideas emanate out of Washington. I have heard some great ideas and solutions from GSA's people who are in the field and work at the ports of entry every day.

GSA clearly understands the importance of, and is committed to, actively working with all key agencies, to build the best LPOEs for the safety of the United States and which support legitimate free trade. GSA is an active member of the Border Facilitation Working Group (BFWG).

The role of the BFWG is to define and analyze critical border facilitation issues and develop policy proposals for consideration by the entire Border and Transportation Security Policy Coordination Committee. The working group recommends improvements in existing interagency practices, coordination and execution of U.S. border facilitation plans and policies, activities and initiatives. The BFWG addresses issues at the Federal, State, local, tribal and international levels in order to ensure interagency integration and alignment. The BFWG has visited several of our critical LPOEs to observe the processes, (including the El Paso LPOEs on December 4) discuss issues or areas of concern at the borders, as well as discuss successes and share "best practices" of borders. The BFWG meets with CBP officers and with the local officials and community stakeholders, on both sides of a shared border, to discuss issues and concerns.

To be sure, Federal money is an important resource. But I am eager also to explore other innovative financing that would help us build more capacity without always depending upon Federal funding. Nogales proved that when there is a strong business case, the private sector is willing and able to participate.

Our borders present complex real estate challenges. We have many stakeholders, all of whom know there is not one silver-bullet solution that can provide for security and, simultaneously, the free flow of trade across all 6,900 miles—especially not if you have ever been to the border, as I have, and have seen how different the challenges are: Houlton is not El Paso, Pembina is not Andrade, Blaine is not Lukeville, Detroit is not San Ysidro.

CBP is one of our most important customer agencies, and we support their mission to keep our borders safe from those who wish to do harm to the United States while also maintaining open commerce and trade with all of our international partners. Today I'd like to talk about:

- (1) How GSA is reasserting its leadership role in building increased capacity at ports of entry;
- (2) Our national LPOE portfolio as well as current projects and initiatives in the El Paso area;
- (3) What we are doing to streamline our processes and expedite project delivery as well as explore alternative financing; and
- (4) Our community outreach efforts.

## LAND PORT OF ENTRY PORTFOLIO AND PROJECTS IN THE EL PASO AREA

There are 163 LPOEs along the Northern and Southern borders encompassing more than 1,900 miles between the United States and Mexico and over 5,000 miles between the United States and Canada. One hundred twenty of these ports, approximately 75 percent, are either Government-owned or -leased border inspection facilities under the jurisdiction and control of GSA as the primary service provider to CBP. The remaining 43 are under the jurisdiction and control of the Department of Homeland Security.

Approximately 20 years ago, there was a major border crossing improvement program along the southern border. From 1987 until 1996, GSA spent more than \$350 million to expedite trade and traffic across the border. Nearly \$50 million was spent on the LPOEs in the El Paso area. At that time, everyone anticipated that the investment would not only prepare the border for the increased cross border activity resulting from NAFTA, but would actually handle the increased traffic for the next 20 years. I doubt that many in this room would have predicted that less than 15 years later, all of these ports of entry would have reached their capacity. Today, five new LPOEs have been authorized for design or construction or both. Four of those are along the southern border, including the Tornillo-Guadalupe project here in El Paso County.

Currently, there are six LPOEs here in the El Paso Metropolitan Planning Organization's area: Paso del Norte, Stanton Street, the Bridge of the Americas, Ysleta, Fabens, and Santa Teresa, NM. These ports are important to the flow of our international commerce, and are vital to the region's trans-border economy and an important link in the area's transportation system.

The El Paso-Juarez metropolitan area represents one of, if not the, largest border community in the world, with a combined population of over 2 million people. We expect to see a large percentage growth in Dona Ana and El Paso Counties between 2005 and 2025 (35 percent and 27 percent, respectively). This growth in El Paso will likely have a direct impact on traffic levels at the El Paso LPOEs at Paso del Norte, Bridge of the Americas, Stanton Street and Ysleta.

The city of Ciudad Juarez, which accounted for 41 percent of the State of Chihuahua's total population in 2005, is undergoing substantial population growth as well. As a growing number of Mexican citizens move north searching for jobs and higher wages, they are arriving in Ciudad Juarez at a rapid rate. As a result, Ciudad Juarez is expected to grow by 57 percent between 2005 and 2025.

GSA has a long history of partnering closely with the city of El Paso, El Paso County, the El Paso Metropolitan Planning Organizations, the Texas Department of Transportation (TXDOT) and others in the delivery of port of entry projects in the El Paso area. I would like to share some of those success stories with you today.

In 1998, with the support of the local community and TXDOT, \$2.4 million was transferred to GSA from the U.S. Department of Transportation for the addition of four inspection lanes and the renovation of the secondary inspection area at the Bridge of the Americas Port of Entry. The remainder of the funding came from GSA, the U.S. Customs Service, the Immigration and Naturalization Service and the Department of Agriculture. As a result, over 7.6 million vehicles and nearly 385,000 trucks were inspected there in 2005. It was a classic example that shows how successful a project can be when the city, State and Federal Governments all work together.

In 2001, the local community supported the transfer of \$1 million from TXDOT for the expansion of lanes at the Paso del Norte Port of Entry. That funding, along with \$1.2 million of Federal appropriations that Chairman Reyes helped us obtain, provided the necessary design funding for the project now underway. The project will renovate and expand the administration building, expand the pedestrian processing area from 8 lanes to 14 lanes, and will add two new vehicle inspection lanes. In 2005, over 3.5 million vehicles, 2,600 buses and 6.5 million pedestrians were inspected at this port, and we expect the expanded inspection facilities to further increase these numbers. This project is planned for completion in summer 2009.

In December 2006, GSA awarded the construction project for the expansion of the Ysleta Port of Entry. This project will increase the number of commercial inspection lanes, promote the expanded use of Free and Secure Trade (FAST) lanes by pre-enrolled commercial vehicles, and allow for direct truck access to the Texas vehicle inspection facility without entering or crossing city streets. In addition, TXDOT is making significant road improvements to remove bottlenecks for trucks exiting the port. This project is scheduled for completion in late 2008.

Pending congressional appropriation of funds in fiscal year 2008, GSA plans to proceed with the design of the new LPOE at Tornillo. This new crossing is sponsored by the County of El Paso and will replace the current two-lane wooden bridge.

GSA has worked closely with the county for the last 10 years to get to this stage. The county will be donating over 110 acres of land along with providing utilities to the site. This LPOE will serve both passenger and commercial vehicles.

In spite of all of these on-going projects, there continues to be concerns about wait times at the El Paso crossings. At CBP's request, GSA has initiated a feasibility study to look at the expansion capabilities at the Bridge of the Americas. As we saw earlier today, the port is essentially boxed in since it is surrounded by highway infrastructure on three sides and a National Park on the other side.

#### STREAMLINED PROCESSES AND PROJECT DELIVERY

As mentioned in the Government Accountability Office's (GAO) November 5, 2007 Report on Border Security,<sup>1</sup> and in the GAO's November 13 testimony before the Senate Committee on Homeland Security and Governmental Affairs,<sup>2</sup> the current delivery time for GSA to design and deliver LPOEs for CBP is approximately 7 years. In an effort to deal with CBP's growing need since September 11, our two agencies have been working closely together for the past year to find ways to streamline the cost and time required to develop, deliver, and maintain CBP facilities while meeting its mission requirements. One of the key things we've been doing in conjunction with CBP is reviewing GSA's current project delivery methods and implementing new streamlined project delivery methods whenever possible.

#### CONSOLIDATED MANAGEMENT AND FUNDING OF KEY PRE-DESIGN AND ACQUISITION PHASES

In an effort to establish a consistent approach in LPOE pre-design, design and acquisition, GSA recently consolidated the procurement and funding of commonly used services. These include feasibility studies, project design and special services.

One of the first steps before designing any project, including LPOEs, is to undertake a feasibility study. This serves as the planning document offering alternatives for site layout, building locations, land acquisition strategy, and traffic flow patterns. It identifies any environmental issues, establishes the project schedule, provides cost estimates, and outlines procurement and funding strategies. In the past, each region of the country used its own contracting vehicles, which sometimes resulted in inexperienced architect-engineer firms who were unfamiliar with the complexities of working on the border. To establish consistency and provide a quality product, GSA held a competition for a national services contract for these border station feasibility studies. The selected architect and engineering firms have undergone training from our regional and national offices to provide them a clear understanding of the GSA/CBP mission, objectives, and priorities.

We have also done a similar competition for the selection of design firms, which will provide a more consistent level of quality design. By having a group of architectural and engineering firms that have already been vetted through a national competition, the time to conduct the procurement process can be reduced by up to 5 months.

#### IMPROVE PROJECT COST ESTIMATION

In today's difficult construction market with the price of materials and labor rates skyrocketing, particularly in markets like El Paso, GSA has been working on ways to incorporate trend analysis to identify recurrent costs across our real estate portfolio. This allows us to aggregate certain costs to gain efficiencies where possible. GSA is also aligning material and labor factors to local markets, while continuously comparing the accuracy of project estimates with key project or funding process milestones. This will improve the ability of our people to estimate project costs and cut down on the need to return to Congress and seek additional funding on projects, thus causing project delays.

#### INSTITUTE A FORMAL PROJECT APPROVAL AND CHANGE MANAGEMENT PROCESS

GSA, in partnership with CBP, is currently implementing and coordinating a formal change management process throughout all of the project delivery phases. This is to make sure that all of the project's stakeholders are aware and have approval, as necessary, of any project changes that could affect scope, schedule and cost.

<sup>1</sup> U.S. Government Accountability Office Report entitled, "Border Security: Despite Progress Weaknesses in Traveler Inspections Exist at Our Nation's Ports of Entry," GSA-08-218 (Nov. 5, 2007).

<sup>2</sup> GAO Testimony Before the Subcommittee on Oversight of Government Management, the Federal Workforce, and the District of Columbia, Committee on Homeland Security and Governmental Affairs, GAO-08-192T (Nov. 13, 2007).

#### ADOPT A SYSTEMS APPROACH TO FACILITY DESIGN AND DEVELOPMENT

In the past, for each LPOE project, the design firm would develop a new design for all of the LPOE components. In an effort to reduce design time from 2 years to 1, GSA and CBP identified standardized components of LPOE facilities that can be applied in designs Nation-wide. These components include: lane systems, canopy cable trays, inspection booths, processing counters, holding cells, secondary inspection buildings, and non-invasive inspection buildings. This creation of an "LPOE Design Kit" of construction details will greatly streamline assembly of a project's construction documents and assist throughout construction phases. For smaller, more remote ports with similar profiles, primarily on the Northern Border, GSA will also utilize LPOE prototypical building designs, where appropriate.

#### STREAMLINING THE PRESIDENTIAL PERMITTING PROCESS

In his constitutional role to conduct the foreign relations of the United States, in 1968, the President issued Executive Order (E.O.) 11423 authorizing the Secretary of State to issue Presidential permits for the construction of facilities crossing our international borders. In 2004, President Bush issued E.O. 13337 clarifying that the Presidential permitting process applied to all new border crossings as well as to substantial modifications to existing crossings. Over the past couple of years, GSA has worked closely with other Federal agencies in the development of guidelines for the implementation of E.O. 13337, regarding the application for Presidential permits. As a result of the collaborative efforts of the Department of State, the Federal Highway Administration, CBP and GSA, earlier this year the Department of State issued implementing guidelines that alleviate the need for applying for a Presidential permit for modification of inspection facilities projects that do not have a substantial impact on the actual crossing or the operations in the adjacent country. These efforts have significantly streamlined the Presidential permitting process. But the next step is to be sure that the interpretation of the guidelines is communicated to all within the organization and adopted Nation-wide.

So, while all new crossings and any proposed substantial change to a crossing that is expected to have a material impact on either Canada or Mexico (for example the closing of a crossing or permanently changing the physical capacity of the crossing) will still require a Presidential permit, many of GSA's routine renovations, infrastructure improvements, and interior changes to existing border inspection facilities will not require a permit. GSA appreciates the Department of State's willingness to work with the interagency working group to develop and issue these new guidelines.

#### COMMUNITY OUTREACH

As I mentioned earlier, GSA tries to engage the local communities as early as possible when beginning new projects. Over the past year, our regional and national offices have worked diligently to reach out to the community stakeholders in El Paso. I have also personally toured the ports here in El Paso, along with David Winstead, the Commissioner of the Public Buildings Service, and we are committed to continuing a dialog as these projects move forward. As a result of our outreach efforts, community groups have had the opportunity to discuss issues with our leadership. The community has brought a variety of proposals and solutions to our attention with the mutual benefit of expediting projects while minimizing the impact on the citizens of El Paso. Our next step is to execute on these efforts.

We recognize the importance of including the local community throughout the process and we value its contribution. We will continue to strive for open and meaningful communication. While the long-term benefits of projects of this scope are easy to recognize, we also understand the adverse short-term effects on the local economy as traffic is diverted and wait times increase during the construction period. To avoid such effects, we are committed to open dialog between and among the stakeholders, as we are doing now by providing weekly updates on our Paso del Norte project to Chairman Reyes and Mayor Cook, so that they can share the information with their interested constituents.

#### CONCLUSION

Securing the Nation's borders is critical in preventing terrorists, illegal drugs or harmful products or produce from entering the country, but we must also facilitate the movement of legitimate international travel and trade in the form of the millions of travelers and billions of dollars in commercial goods that pass through our LPOEs every year. Due to the critical importance of these border inspection facilities to our Nation's security, it is imperative for GSA to continue to make the best possible effort to provide and maintain border crossings and border inspection facil-

ties that can most effectively and efficiently handle the increased demands and future growth of border security and flow of traffic and trade.

Mr. Chairman this concludes my formal statement. I look forward to continuing our discussion with you and Members of the committee on our continued efforts to build increased capacity and infrastructure at our Nation's borders.

Chairman THOMPSON. Thank you very much. I now recognize Mr. Stana to summarize his statement for 5 minutes.

**STATEMENT OF RICHARD M. STANA, DIRECTOR, HOMELAND SECURITY AND JUSTICE, GOVERNMENT ACCOUNTABILITY OFFICE**

Mr. STANA. Thank you, Chairman Thompson, and the distinguished Members. I'm pleased to be here today in El Paso to discuss GAO's recent report on CBP traveler inspections at our Nation's ports of entry. As you know, CBP is the lead Federal agency responsible for inspecting travelers who enter the United States. In carrying out this responsibility, over 17,000 CBP officers are charged with keeping terrorists and other dangerous or inadmissible people from entering the country while also facilitating cross-border movement of millions of travelers and legitimate cargo. For fiscal year 2007, CBP had a budget of \$9.3 billion, of which \$2.5 billion was for border security and trade facilitation at ports of entry.

My prepared statement summarizes the report we issued to you on November 5, Mr. Chairman. In my oral statement I'd like to highlight three main points of interest for this hearing.

First, CBP officers at the ports of entry have had some success in identifying inadmissible aliens and other violators. In fiscal year 2006 they successfully turned away over 200,000 travelers who attempted illegal entry at the ports and seized more than 40,000 phony documents. Despite this success, weaknesses in inspection procedures resulted in many thousands of illegal aliens and other violators from entering the country. This problem is not new, and previous attempts to fix it have not been fully successful.

In 2003 we reported on several weaknesses in the CBP inspection process that permitted inadmissible aliens to enter the country, and we recommended improvements. In 2006 CBP identified weaknesses in its inspection procedures, such as officers waving vehicles into the country without stopping the vehicle or interviewing the driver or its passengers. CBP headquarters called for corrective actions in 2006, but our subsequent testing showed that significant weaknesses still existed. In several locations we found, among other things, that travelers' nationality and admissibility were not always verified and inspection booths were not always staffed.

In July 2007 CBP revised its policies and procedures for traveler inspections at land crossings to require that its officers handle the travel document of each traveler and when possible check the document against law enforcement databases. They also call on CBP supervisors to monitor officer compliance with the new procedures and for CBP headquarters to do compliance testing. The extent that these actions are successful remains to be seen.

My second point is that CBP faces several challenges in addressing the physical infrastructure weaknesses. CBP estimates that it needs about \$4 billion in capital improvements for its 163 land crossings along the northern and southern borders. For example,

here in El Paso at the Bridge of the Americas CBP determined that there is limited space in the current facility for current CBP operations, let alone future growth. The bridge fence and lighting are inadequate to prevent illegal entry on the bridge, and that better signage and controls are necessary to control the vehicle traffic.

However, making these and other infrastructure changes is not easy. The General Services Administration owns or leases from private entities, such as private bridge commissions, most of the 163 land border crossings including the Bridge of the Americas. As a result, CBP must coordinate the design and construction of any capital improvements with these and other entities such as State highway departments, and that's a process that can take up to 7 years from start to finish. Also CBP does not control the funding needed for capital improvements but rather submits its proposals to GSA where CBP proposals were considered for funding with those of other agencies. Therefore the degree to which improvements can be made at land ports and how long they will take depend on the results of discussions with various stakeholders and available funding.

My last point is that while new policies, procedures and infrastructure improvements may help strengthen traveler inspections, they alone will not fully address the causes of failed inspections. CBP staffing model shows it may need up to several thousand new officers to properly operate its ports of entry. CBP managers at seven of the eight ports we visited told us that staffing shortfalls adversely affected their ability to carry out traveler inspections in a number of ways, including not having staff to carry out anti-terrorism programs and requiring extensive overtime to cover routine operations, which can cause morale problems, fatigue and a lack of back-up support.

Officer attrition is a contributing factor. In some locations it's sometimes difficult to hire enough staff to replace officers who leave, let alone fill open slots. Staffing shortfalls can also affect CBP's ability to provide both classroom and on-the-job training to its officers. Port officials sometimes need to make a tough choice between allowing staff to go to training and improve their skills or require staff to forego training because they are needed to do inspections. Moreover, when training is provided, CBP does not measure the extent to which the courses are delivered to the officers who need it nor does it require new officers to demonstrate proficiency and required skills after they take the courses.

In closing, having a sufficient number of well-trained and well-supervised CBP officers is important for the safety and well-being of our Nation and for allowing legitimate travelers and cargo to proceed through the ports at an acceptable pace. Our work underscores the need for CBP to address weaknesses in its policies, procedures, supervisory controls and infrastructure, to find ways to adequately staff its ports of entry including developing and implementing strategies for retaining good staff, and to improve classroom and on-the-job training programs for its officers. None of these actions alone can fix the problems we found, but a coordinated and well-implemented effort can mitigate the risk and consequences of failed traveler inspections.

Mr. Chairman, this concludes my oral statement. I would be pleased to answer any questions that you or other Members may have.

[The statement of Mr. Stana follows:]

PREPARED STATEMENT OF RICHARD M. STANA

JANUARY 3, 2008

GAO HIGHLIGHTS

Highlights of GAO-08-329T, a testimony before the Committee on Homeland Security, House of Representatives.

*Why GAO Did This Study*

U.S. Customs and Border Protection (CBP) is responsible for keeping terrorists and other dangerous people from entering the country while also facilitating the cross-border movement of millions of travelers. CBP carries out this responsibility at 326 air, sea, and land ports of entry. In response to a congressional request, GAO examined CBP traveler inspection efforts, the progress made, and the challenges that remain in staffing and training at ports of entry, and the progress CBP has made in developing strategic plans and performance measures for its traveler inspection program. To conduct its work, GAO reviewed and analyzed CBP data and documents related to inspections, staffing, and training, interviewed managers and officers, observed inspections at eight major air and land ports of entry, and tested inspection controls at eight small land ports of entry. GAO's testimony is based on a report GAO issued November 5, 2007.

*What GAO Recommends*

GAO made recommendations aimed at enhancing internal controls in the inspection process, mechanisms for measuring training provided and new officer proficiency, and a performance measure for apprehending inadmissible aliens and other violators. The Department of Homeland Security (DHS) concurred with GAO's recommendations. DHS said that CBP is taking steps to address the recommendations.

BORDER SECURITY: DESPITE PROGRESS, WEAKNESSES IN TRAVELER INSPECTIONS EXIST  
AT OUR NATION'S PORTS OF ENTRY

*What GAO Found*

CBP has had some success in identifying inadmissible aliens and other violators, but weaknesses in its operations increase the potential that terrorists and inadmissible travelers could enter the country. In fiscal year 2006, CBP turned away over 200,000 inadmissible aliens and interdicted other violators. Although CBP's goal is to interdict all violators, CBP estimated that several thousand inadmissible aliens and other violators entered the country through ports of entry in fiscal year 2006. Weaknesses in 2006 inspection procedures, such as not verifying the citizenship and admissibility of each traveler, contribute to failed inspections. Although CBP took actions to address these weaknesses, subsequent follow-up work conducted by GAO months after CBP's actions found that weaknesses such as those described above still existed. In July 2007, CBP issued detailed procedures for conducting inspections including requiring field office managers to assess compliance with these procedures. However, CBP has not established an internal control to ensure field office managers share their assessments with CBP headquarters to help ensure that the new procedures are consistently implemented across all ports of entry and reduce the risk of failed traveler inspections.

CBP developed a staffing model that estimates it needs up to several thousand more staff. Field office managers said that staffing shortages affected their ability to carry out anti-terrorism programs and created other vulnerabilities in the inspections process. CBP recognizes that officer attrition has impaired its ability to attain budgeted staffing levels and is in the process of developing a strategy to help curb attrition. CBP has made progress in developing training programs; however, it does not measure the extent to which it provides training to all who need it and whether new officers demonstrate proficiency in required skills.

CBP issued a strategic plan for operations at its ports of entry and has collected performance data that can be used to measure its progress in achieving its strategic goals. However, current performance measures do not gauge CBP effectiveness in apprehending inadmissible aliens and other violators, a key strategic goal.



Source: GAO.

Mr. Chairman and Members of the committee: I appreciate the opportunity to participate in today's field hearing in El Paso Texas, to discuss the Department of Homeland Security's (DHS) efforts to inspect travelers at our Nation's ports of entry.<sup>1</sup> My statement today is based on our November 5, 2007, report<sup>2</sup> that describes the progress made by CBP in inspecting travelers at air and land ports of entry and the challenges that remain.<sup>3</sup>

The U.S. Customs and Border Protection (CBP)—a major component within DHS—is the lead Federal agency in charge of inspecting travelers seeking to enter the United States at 326 air, land, and sea ports of entry. CBP officers, who number about 17,600 at these ports of entry, play a critical role in carrying out this responsibility. Since the terrorist attacks of September 11, 2001, their role has involved increased emphasis on countering threats posed by terrorists and others attempting to enter the country with fraudulent or altered travel documents. Intelligence officials believe that the United States will face a persistent and evolving terrorist threat and that the terrorist group al Qaeda will intensify its efforts to put operatives here.

In addition to its homeland security responsibilities, CBP is responsible for preventing inadmissible aliens, criminals, and inadmissible goods from entering the country. Doing so is a difficult task given the high volume of travelers and goods that enter the country. For example, officers frequently carry out their responsibilities with little time to make decisions about admitting individuals into the country because they also face pressure to facilitate the cross-border movement of millions of legitimate travelers and billions of dollars in international trade.

When CBP was created in March 2003, it represented a merger of components from three departments—the U.S. Customs Service,<sup>4</sup> the U.S. Immigration and Naturalization Service,<sup>5</sup> and the Animal and Plant Health Inspection Service.<sup>6</sup> As part of the merger, CBP moved forward with an approach that was to allow a CBP officer, with the proper cross-training, to carry out homeland security as well as traditional customs and immigration responsibilities. For example, former customs inspectors would be trained and work on tasks traditionally done by immigration in-

<sup>1</sup> Ports of entry are Government-designated locations where CBP inspects persons and goods to determine whether they may be lawfully admitted into the country. A land port of entry may have more than one border crossing point where CBP inspects travelers for admissibility into the United States.

<sup>2</sup> See GAO, *Border Security: Despite Progress, Weaknesses in Traveler Inspections Exist at Our Nation's Ports of Entry*, GAO-08-219 (Washington, DC: Nov. 5, 2007).

<sup>3</sup> Our November 2007 report (GAO-08-219) is the public version of a For Official Use Only report that we issued on October 5, 2007. This report contained sensitive information about CBP traveler inspection efforts, including information on the techniques used to carry out inspections, data on the number of inadmissible aliens and other violators that enter the country each year, and data on staffing at ports of entry. See GAO, *Border Security: Despite Progress, Weaknesses in Traveler Inspections Exist at Our Nation's Ports of Entry*, GAO-08-123SU (Washington, DC: Oct. 5, 2007).

<sup>4</sup> U.S. Customs Service was in the U.S. Department of the Treasury. Customs inspectors were primarily responsible for inspecting cargo and goods.

<sup>5</sup> U.S. Immigration and Naturalization Service was in the Department of Justice. Immigration inspectors were responsible for processing people traveling across the border.

<sup>6</sup> Animal and Plant Health Inspection Service was in the Department of Agriculture. Unlike the Customs Service and the Immigration and Naturalization Service, which were moved to DHS in its entirety, Animal and Plant Health Inspection Service continues to exist within the Department of Agriculture and retains responsibility for conducting, among other things, veterinary inspections of live imported animals, establishing policy for inspections and quarantines, and providing risk analysis.

spectors and vice versa. The CBP officer would also be capable of referring agricultural violations to agricultural specialists. By training officers from legacy agencies to perform both the customs and immigration functions, CBP aimed to have a well-trained and well-integrated work force to carry out the range of the agency's missions.

In July 2003, we reported on vulnerabilities and inefficiencies in traveler inspections.<sup>7</sup> Given the critical role that CBP plays in homeland security, you asked us to review the progress CBP has made in strengthening its ability to inspect travelers arriving at the Nation's international airports and land borders. In response, on November 5, 2007, we issued a report that addressed the following questions:

- What success and challenges has CBP had in interdicting inadmissible aliens and other violators<sup>8</sup> at its ports of entry?
- What progress has CBP made in improving staffing and training at its ports of entry and how successful has it been in carrying out these work force programs?
- What progress and problems has CBP encountered in setting goals and performance measures for its traveler inspection program?

To address the questions above, we analyzed information and data on CBP's traveler inspections, staffing, and training at ports of entry. We reviewed CBP policies and procedures for the traveler inspection program as well as other documents related to traveler inspection efforts. We interviewed CBP officials on the status of CBP efforts to develop a staffing model, train staff, carry out traveler inspections, and develop performance measures.<sup>9</sup> For information that would provide an overall picture of CBP's efforts, we reviewed and analyzed several Nation-wide databases, including data on staffing, training, attrition, resource requests from CBP's 20 field offices<sup>10</sup> and 1 pre-clearance headquarters office, and apprehension of inadmissible aliens and other violators at major air and land ports of entry. We assessed the reliability of CBP's data from CBP's random selection program of travelers and staffing and training data by, among other things, meeting with knowledgeable officials about these data, reviewing relevant documentation, and performing electronic testing. We concluded that data from CBP databases, with the exception of the data on training as we discuss in our report, were sufficiently reliable for the purposes of our review. Although we discussed the staffing model and its results with CBP officials responsible for the model, validating the model and its results was outside the scope of our review.

To supplement our analyses of CBP's Nation-wide data, we visited eight ports of entry. While we cannot generalize our work from our visits to all ports of entry, we chose these ports of entry to provide examples of operations at air and land ports of entry. At each site, we held discussion groups with CBP officers and met with management to discuss, among other things, staffing and training programs. In addition, GAO investigators visited other small ports of entry to test the traveler inspection process. Although we cannot generalize our investigators' work at these locations to all ports of entry, we selected these ports of entry to provide examples of traveler inspections. Our investigators did their work in accordance with quality standards for investigations as set forth by the President's Council on Integrity and Efficiency. Unless we specify that the work was done by our investigators, all referrals to our visits to ports of entry pertain to the eight air and land ports of entry we visited. In addition, we analyzed the 2004 and 2006 Office of Personnel Management Federal Human Capital Surveys of staff at 36 Federal agencies, including the results from CBP, that dealt with the views of Federal employees on training and staffing in the workplace. We reviewed standards for internal control in the Federal Government<sup>11</sup> and compared the standards for information and communications and monitoring with CBP's policies and procedures for traveler inspections. Finally, we reviewed prior GAO reports on best practices for developing strategic plans and

<sup>7</sup>See GAO, *Land Ports of Entry: Vulnerabilities and Inefficiencies in the Inspections Process*, GAO-03-782 (Washington, DC: July 2003).

<sup>8</sup>Other violators include individuals seeking to enter the country who are not in compliance with the laws and regulations for entry, including immigration, customs, and agricultural requirements.

<sup>9</sup>Our work on training focused on the training provided at ports of entry and did not include basic training given to CBP officers at the Federal Law Enforcement Training Center. We also did not examine the role of agricultural specialists in CBP because we issued a report on agricultural inspections at ports of entry last year. See GAO, *Homeland Security: Management and Coordination Problems Increase the Vulnerability of U.S. Agriculture to Foreign Pests and Disease*, GAO-06-644 (Washington, DC: May 19, 2006).

<sup>10</sup>BP's 20 field offices are responsible for managing more than 300 ports of entry.

<sup>11</sup>GAO, *Standards for Internal Control in the Federal Government*, GAO/AIMD-00-21.3.1 (Washington, DC: November 1999).

performance measures and compared the best practices with CBP's plans and measures for its operations at its ports of entry. We did our work in accordance with generally accepted government auditing standards from August 2006 through September 2007.

#### SUMMARY

CBP has had some success in interdicting inadmissible aliens and other violators, but weaknesses in its traveler inspection procedures and related physical infrastructure increase the potential that dangerous people and illegal goods could enter the country. In 2006, CBP officers turned away over 200,000 aliens who attempted to enter the country illegally, and seized over 600,000 pounds of illegal drugs and more than 40,000 fraudulent documents, according to CBP. To help officers identify potential violators, CBP has installed additional technology to inspect vehicles for smuggled aliens and illicit cargo and to check traveler documents against law enforcement databases. While CBP has had some success in apprehending inadmissible aliens and other violators, its analyses indicate that several thousand inadmissible aliens and other violators entered the country at air and land ports of entry in fiscal year 2006.<sup>12</sup> When CBP does not apprehend a potentially dangerous person, this increases the potential that national security may be compromised. Weaknesses that contributed to failed inspections relate both to procedures and to infrastructure:

*Weaknesses in traveler inspection procedures.*—In mid-2006, CBP reviewed videotapes from about 150 large and small ports of entry and, according to CBP officials, determined that while CBP officers carried out thorough traveler inspections in many instances, they also identified numerous examples where traveler inspections at land ports of entry were weak in that they did not determine the citizenship and admissibility of travelers entering the country as required by law. The following were examples that were on the videotape:

- In one instance, officers waved vehicles into the United States without stopping the vehicle or interviewing the driver or its passengers as required. In another instance, motorcycles passed through inspection lanes without stopping and making any contact with an officer. In a third instance, during "lane switches" when CBP officers were relieved of their duty and replaced by other officers, officers waved traffic through the lane while the officer logged into the computer. The proper procedure is for traffic to be stopped until the officer is logged into the system and is available to perform proper inspections.
- In another instance, while the CBP officer was reviewing information on his computer screen, he waved pedestrians through the lane without looking at them, making verbal contact, or inspecting travel documents. In another instance, travelers would simply hold up their identification cards and officers would view them without stepping out of the booth before waving the vehicle through. In these cases, the officers did not appear to make verbal contact with the passengers and did not interview any passengers sitting in the back seat of the vehicle. As a final example, officers did not board recreational vehicles to determine whether additional traveler inspections should be carried out.

Without checking the identity, citizenship, and admissibility of travelers, there is an increased potential that dangerous people and inadmissible goods may enter the country and cause harm to American citizens and the economy. According to CBP interviews with apprehended alien smugglers, alien smuggling organizations have been aware of weaknesses in CBP's inspection procedures and they have trained operatives to take advantage of these weaknesses. This awareness heightens the potential that failed inspections will occur at ports of entry when such procedural weaknesses exist.

According to CBP senior management, the factors that may have contributed to these weaknesses included the following:

- Failure to engage, lack of focus, and complacency. According to CBP senior management, emphasis is not being placed on all missions, and there is a failure by some of its officers to recognize the threat associated with dangerous people and goods entering the country.
- Insufficient staffing. According to CBP senior management, they are unable to staff ports of entry to sufficiently accommodate the workload. Lack of sufficient staff contributes to officers working double shifts, sometimes resulting in fatigue that can affect decisions.<sup>13</sup>

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<sup>12</sup>We did not include data on the rate at which CBP apprehends inadmissible aliens and other violators who seek to enter the country because the data are considered sensitive.

<sup>13</sup>Staffing and training issues are discussed in more detail later in this testimony.

- Lack of supervisory presence in primary inspections. CBP senior management noted that lack of supervisory presence at primary inspection booths can contribute to less than optimal inspections.
- Lack of training. CBP senior management acknowledged that, in some cases, periodic and on-the-job training is not being delivered.

In the summer of 2006, CBP management took actions to place greater management emphasis on traveler inspections by holding meetings with senior management to reinforce the importance of carrying out effective inspections and by providing training to all supervisors and officers on the importance of interviewing travelers, checking travel documents, and having adequate supervisory presence. However, tests our investigators conducted in October 2006 and January 2007—as many as 5 months after CBP-issued management guidance and conducted the training—showed similar weaknesses as those on the videotape were still occurring in traveler inspections at ports of entry. At two ports, our investigators were not asked to provide a travel document to verify their identity—a procedure that management had called on officers to carry out—as part of the inspection. The extent of continued noncompliance is unknown, but these results point to the challenge CBP management faces in ensuring its directives are carried out. Standards for internal control in the Federal Government require that information should be communicated to agency management to enable it to carry out its program responsibilities. In July 2007, CBP issued new internal policies and procedures for agency officials responsible for its traveler inspection program at land ports of entry. The new policies and procedures require field office managers to conduct periodic audits and assessments to ensure compliance with the new inspection procedures. However, they do not call on managers to share the results of their assessments with headquarters management. Without this communication, CBP management may be hindering its ability to efficiently use the information to overcome weaknesses in traveler inspections.

*Weaknesses in physical infrastructure.*—While we cannot generalize our findings, at several land ports of entry that we examined, barriers designed to ensure that vehicles pass through a CBP inspection booth were not in place, increasing the risk that vehicles could enter the country without inspection.<sup>14</sup> CBP recognizes that it has infrastructure weaknesses and has estimated it needs about \$4 billion to make the capital improvements needed at all 163 of the Nation's land crossings. CBP has prioritized the ports with the greatest need. Each year, depending upon funding availability, CBP submits its proposed capital improvement projects based upon the prioritized list it has developed. Several factors affect CBP's ability to make improvements, including the fact that some ports of entry are owned by other governmental or private entities, potentially adding to the time needed to agree on infrastructure changes and put them in place. For example, according to CBP officials, for 96 ports of entry that are owned by the General Services Administration (GSA), GSA approves and prioritizes capital improvement projects. The process of submitting a request for an infrastructure improvement and completion of the project is approximately 7 years from start to finish, according to a GSA official. For 23 ports of entry that are privately owned and leased by GSA,<sup>15</sup> CBP officials noted that coordinating with privately owned companies on infrastructure improvements is a difficult process because the private owner's interest in facilitating commerce must be balanced with CBP's interest in national security. As of September 2007, CBP had infrastructure projects related to 20 different ports of entry in various stages of development.

As previously mentioned, insufficient staffing and lack of training can contribute to a greater likelihood of failed traveler inspections. CBP has taken action to improve staffing and training at ports of entry by assessing staffing needs, adding more officers since 2005 in response to higher budgeted staffing levels, and developing an extensive training program, but it lacks: (1) Data to measure progress on providing required training, and (2) certain elements in its on-the-job training program for new CBP officers, which limits its ability to effectively train and evaluate the performance of new officers. According to managers at ports of entry, staffing shortages can result in, among other things, officer fatigue that can affect the quality of traveler inspections. Untrained or poorly trained officers can increase the probability that terrorists, inadmissible aliens, and illicit goods will enter the country. Progress and problems with staffing and training involved the following:

*Progress and problems with staffing.*—Responding to language in a conference report for its fiscal year 2007 appropriation, CBP has developed a staffing model to

<sup>14</sup> The locations and a description of weaknesses in physical infrastructure are considered sensitive information and therefore are not included in this testimony.

<sup>15</sup> Examples of privately owned ports of entry that are leased to GSA include the Rainbow Bridge in Niagara Falls, New York, and the Windsor Tunnel in Detroit, Michigan.

estimate staffing needs. The model is based on several assumptions, such as whether overtime is considered as part of CBP's staffing at ports of entry. CBP's model estimates that CBP may need up to several thousand more officers and agricultural specialists<sup>16</sup> to operate its ports of entry.<sup>17</sup> According to field officials, lack of staff is affecting their ability to carry out border security responsibilities. For example, we examined requests for resources from CBP's 20 field offices and its preclearance headquarters office for January 2007 and found that managers at 19 of the 21 offices cited examples of anti-terrorism activities not being carried out, new or expanded facilities that were not fully operational, and radiation monitors and other inspection technologies not being fully used because of staff shortages. At seven of the eight major ports we visited, officers and managers told us that not having sufficient staff contributes to morale problems, fatigue, lack of backup support, and safety issues when officers inspect travelers—increasing the potential that terrorists, inadmissible travelers, and illicit goods could enter the country. In addition, officers at six of the eight ports of entry we visited indicated that officer fatigue caused by excessive overtime negatively affected inspections at their ports of entry. On occasion, officers said they are called upon to work 16-hour shifts, spending long stints in the primary passenger processing lanes to keep lanes open, in part to minimize traveler wait times.<sup>18</sup> Further evidence of fatigue came from officers who said that CBP officers call in sick due to exhaustion, in part to avoid mandatory overtime, which in turn exacerbates the staffing challenges faced by the ports.

Reported staffing shortages are exacerbated by challenges in retaining staff, contributing to an increasing number of vacant positions Nation-wide.<sup>19</sup> CBP officials attribute attrition to retirements, officers receiving better law enforcement benefits at other DHS components and other Federal agencies, and new officers being unable to afford high cost-of-living locations. Low job satisfaction, as reflected in the Office of Personnel Management's (OPM) Federal Human Capital Survey, is also a contributing factor to attrition, according to CBP. CBP recognized that it has a problem with retaining staff and plans to develop ways to stem its problems in this area. For example, CBP plans to analyze attrition data and data from OPM's Human Capital Survey and employee satisfaction and exit surveys in order to help identify what actions are needed to curb attrition. CBP plans to develop some initial retention strategies by December 2008 and by September 2009 develop approaches to retain staff based on areas of concern identified in the employee exit survey.

*Progress and problems with training.*—CBP has developed 37 courses on such topics as how to carry out inspections and detect fraudulent documents and has instituted national guidelines for a 12-week on-the-job training program that new officers should receive at land ports of entry. However, CBP faces challenges in providing the required training. Managers at seven of the eight ports of entry we visited said that they were challenged in putting staff through training because staffing shortfalls force the ports to choose between performing port operations and providing training. For example, at one land port of entry we visited, managers stated that courses are scheduled, but then canceled because of staffing concerns.

Managers and supervisors at six of eight ports of entry we visited told us that vulnerabilities in traveler inspections occurred when officers did not receive cross-training before rotating to new inspection areas. Although CBP's training policy calls for no officer to be placed in an area without receiving the proper cross-training module, officers and supervisors at ports of entry we visited told us that officers were placed in situations for which they had not been trained. While we cannot determine the degree to which this is happening in other ports of entry cross the country, we identified several examples where this policy is not being followed at the ports of entry we visited. For example, legacy customs officers at one port of entry reported feeling ill-prepared when called upon to inspect passengers because they had not received the requisite training. One supervisor at this port of entry stated that he had "no confidence" that the officers he supervised could process the case-

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<sup>16</sup>The agricultural specialist is a technical, scientific position rather than a law enforcement position with an emphasis on detecting and preventing the importation of harmful agricultural pests and diseases. The agricultural specialist is responsible for conducting agriculture inspections of passengers and cargo as well as analysis of agriculture imports. Additionally, agricultural specialists are not authorized to carry firearms, and therefore, they cannot staff primary inspection lanes. However, they may provide backup support to CBP officers during secondary screening.

<sup>17</sup>CBP has determined that data from the staffing model is law enforcement-sensitive. Therefore, we are not providing more detailed data and information from the model in this testimony.

<sup>18</sup>Specific concerns from CBP officials of how officer fatigue affects primary inspections are not included in this testimony because the information is considered sensitive.

<sup>19</sup>Specific data on CBP's budgeted staffing level and the number of officers on-board are not included in this testimony because CBP considers the data sensitive.

work for a marijuana seizure correctly to successfully prosecute the violator because they had not received training. Supervisors at another port of entry told us that they were rotated to areas in which they had not received training. With responsibility over admissibility decisions, these supervisors were concerned that they could not answer questions from their subordinates or make necessary determinations beyond their area of expertise. As a result of not being trained, officers at this port stated that they relied heavily on senior officers from legacy agencies. The officers also told us that these senior officers have been leaving the agency. CBP managers in headquarters recognize that insufficient training can lead to a higher risk of failed inspections. For example, in a presentation that was given to all field office directors, CBP headquarters officials stated that untrained officers increase the risk that terrorists, inadmissible travelers, and illicit goods could enter the country.

Standards for internal control in the Federal Government provide a framework for agencies to achieve effective and efficient operations and ultimately to improve accountability. One of the standards calls on agencies to compare actual performance to planned or expected results throughout the organization and to analyze significant differences. However, CBP lacks data that show whether the individuals who require training are receiving it. Having reliable data to measure the degree to which training has been delivered would put CBP management in a position to better gauge the results of its cross-training program. In regards to on-the-job training, while CBP guidance states that new officers at land ports of entry should receive 12 weeks of on-the-job training, new officers at the ports we visited did not receive 12 weeks of training. For example, at one port of entry, new officers told us they received between 2 weeks and 6 weeks of on-the-job training. In addition, internal control standards related to management of human capital state that management should ensure that the organization has a work force that has the required skills necessary to achieve organizational goals. CBP's guidance for its on-the-job training program does not require that new CBP officers perform certain tasks in order to develop needed skills or that the officers demonstrate proficiency in specific tasks. In contrast, the U.S. Border Patrol, another office within CBP, has developed a field training program where officers are required to demonstrate proficiency in 32 different skills. We discussed the utility of the Border Patrol's on-the-job training standards with CBP officials who told us that they might examine the Border Patrol's program to identify best practices that they could incorporate into the on-the-job training program for new CBP officers. When staff do not receive required training or are not trained consistently with program guidance, it limits knowledge building and increases the risk that needed expertise is not developed.

Our analysis of OPM's 2006 Federal Human Capital Survey shows that CBP staff expressed concern about training. Our analysis shows that less than half of non-supervisory CBP staff were satisfied with how CBP assesses their training needs (43 percent), the extent to which supervisors support employee development (43 percent), and the degree to which supervisors provide constructive feedback on how to improve (42 percent). In responding to these three questions, a significantly lower percentage of nonsupervisory staff at CBP was satisfied with their training experiences than nonsupervisory staff in other Federal agencies.

CBP has developed strategic goals that call for, among other things, establishing ports of entry where threats are deterred and inadmissible people and goods are intercepted—a key goal related to traveler inspections—but it faces challenges in developing a performance measure that tracks progress in achieving this goal. Linking performance to strategic goals and objectives and publicly reporting this information is important so that Congress and the public have better information about agency performance and to help to ensure accountability. While CBP's 2006 Performance and Accountability Report included some performance measures related to CBP's goal of intercepting inadmissible people and goods, the report did not include a performance measure regarding how effective CBP is at achieving this goal at ports of entry. CBP has data on the degree to which it interdicts travelers who seek to enter the country illegally or who violate other laws at major air and land ports of entry.

During the course of our review, we discussed with CBP officials the potential of using these data as one way of measuring the effectiveness of CBP inspection efforts. In June 2007, CBP officials told us that CBP was in the process of selecting performance measures for fiscal year 2008 and a decision had not yet been made on whether to include these data or other similar outcome-based measures in its performance report.

#### CONCLUDING REMARKS

Effective inspection of the millions of travelers entering the country each year is critical to the security of the United States. As CBP matures as an organization,

having effective inspection procedures, retaining its officer corps, and developing the necessary skills in its officer corps are essential given the critical role that CBP plays in national security. Although CBP developed new inspection procedures that require CBP field office directors to monitor and assess compliance with the new procedures, a key internal control requiring field office directors to communicate with CBP management the results of their monitoring and assessment efforts is not in place. As a result, CBP management may not get information that would identify weaknesses in the traveler inspections process that need to be addressed. The initial set of actions that CBP has taken for dealing with challenges in training at ports of entry is a positive start, but it has not established a mechanism to know whether officers who need specific cross-training have received it and whether new CBP officers have experience in the necessary job tasks and are proficient in them. This means that some officers may be called on to perform certain inspection tasks without having the knowledge and skills to do them.

It is also important to have performance measures in place to permit agency management to gauge progress in achieving program goals and, if not, to take corrective action. In regard to traveler inspections, CBP is missing an important performance measure that shows what results are achieved in apprehending inadmissible aliens and other violators. CBP has apprehension rate data that could be used to develop such a performance measure. Having performance measures related to the effectiveness of CBP interdiction efforts would help inform Congress and agency management of improvements resulting from changes in CBP's traveler inspection program and what gaps in coverage, if any, remain.

In our report,<sup>20</sup> we made a number of recommendations to mitigate the risk of failed traveler inspections. We recommended that the Secretary of Homeland Security direct the Commissioner of Customs and Border Protection to take the following four actions:

- implement internal controls to help ensure that field office directors communicate to agency management the results of their monitoring and assessment efforts so that agency-wide results can be analyzed and necessary actions taken to ensure that new traveler inspection procedures are carried out in a consistent way across all ports of entry;
- develop data on cross-training programs that measure whether the individuals who require training are receiving it so that agency management is in a better position to measure progress toward achieving training goals;
- incorporate into CBP's procedures for its on-the-job training program: (1) Specific tasks that CBP officers must experience during on-the-job training; and (2) requirements for measuring officer proficiency in performing those tasks; and,
- formalize a performance measure for the traveler inspection program that identifies CBP's effectiveness in apprehending inadmissible aliens and other violators.

DHS said it agreed with our recommendations and discussed actions CBP has underway or has taken to address our recommendations.

Mr. Chairman, this concludes my prepared statement. I would be happy to answer any questions that you and the Members of the committee may have.

Chairman THOMPSON. I thank all the witnesses for their testimony. I'll remind each Member that he or she will have 5 minutes to question the panel. I now recognize myself for questioning.

Assistant Commissioner, are your staffing requirements at this point adequate to do the job for border security and commerce facilitating?

Mr. WINKOWSKI. Well, if we received additional staffing, we could put those individuals to work. We have a lot of work to do. I will comment on the fact that we do have, as the gentleman from GAO mentioned, vacancies. We have this year over 2,878 training slots down at Glynco for our CBPO training. So we're in the process of filling existing vacancies in addition to the vacancies of the new positions that we received this year.

We do have difficulties at time, with some of the locations, of retaining people, and it's a consistent strategy on our part to fill those vacancies as quickly as we can. For example, in a place like

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<sup>20</sup>See GAO-08-219.

Los Angeles/Long Beach, very high cost of living, we have over 100 vacancies. We focus our attention on that. But we're working very hard, we've got people in the pipeline to fill the existing vacancies, which we continue to focus in on.

Chairman THOMPSON. I guess my question is: As of this hearing, is it your testimony that we are adequately staffed at all our ports of entry so that delays will not occur both from commerce facilitation as well as security purposes?

Mr. WINKOWSKI. If we receive additional staffing, we could put those officers—we have a lot of work to do, we can put them to work.

Chairman THOMPSON. So is that yes or no?

Mr. WINKOWSKI. We could use additional staffing.

Chairman THOMPSON. Okay. Thank you very much.

Mr. STANA, you also talked about the need not only to hire more people but to make sure that once we hire them, we provide the training. Did your findings indicate that somehow the Department is lowering their standard for employees to fill numbers, or just what did you, from your report, glean?

Mr. STANA. Let me answer that in two ways because there's two parts to your question. One is with staffing and one is with training.

With regard to staffing, at least last summer, there were about 1,000 unstaffed, unfilled positions existing already in the allotment already provided to CBP. Their staffing model showed the need for several thousand more than that, depending on the assumptions that you use on overtime and other staffing duties and responsibilities. So there is a need for more staff in that even the levels they have aren't filled yet, let alone the ones that the model showed that they need.

I might add that a good number of those open positions are right here in El Paso. I have the specific number if you'd like, but I don't know if that's protected information at this point.

With regard to training—I might say also that I have no evidence that shows that they're reducing their standards to bring in new staff. They have certain requirements for criteria for hiring new staff, and I have no evidence to show that somehow or other those are being bridged somehow. We just didn't look at that.

As far as training, there's good news and there's bad news. The good news is they've developed 37 different training courses for the CBP officers. They developed a routine and standardized OJT program for the field. The bad news is, is that with regard to the training programs, the results are not always tracked as to who needs what training, given the job that they have so that they can be programmed to receive it. OJT is being cut down dramatically. It's a 12-week program. Here in El Paso, I believe it's down to somewhere between 2 and 6 weeks. So it's been cut in half or more because of the need to get the officers on the line.

Chairman THOMPSON. So does that make a potential vulnerability for—

Mr. STANA. Well, if you're not trained to do your responsibility, sure, it can create a vulnerability. The reason they created this training program is to mitigate those risks, and if you can't carry out the training program, those risks are not going to be mitigated.

Chairman THOMPSON. So, in essence, because we are trying to fill slots, we reduce the number of training hours to address the vacancy—

Mr. STANA. Yeah, that's one of the effects, is not having a sufficient number of staff. Another effect is that people are being asked to work excessive amounts of overtime, sometimes two shifts back to back. Many officers would say they enjoy having overtime because it provides them with extra income. On the other hand, when you're working 16-hour shifts and you're in hour 15 of 16 hours, are you going to be as alert and attentive to your inspection procedures as you would be? Maybe not.

Chairman THOMPSON. Thank you very much. My time has expired. The Chair will now recognize other Members for questioning, as they may wish to ask the witnesses. In accordance with our committee rules, I'll recognize Members based on seniority on the committee, alternating between majority and minority.

The Chair now recognizes for 5 minutes the gentleman from Tennessee, Mr. Davis of Tennessee.

Mr. DAVIS of Tennessee. Thank you, Mr. Chairman.

I wanted to ask, overall how do the trusted traveler programs such as SENTRI and FAST enhance security and reduce wait times?

Mr. WINKOWSKI. Well, the SENTRI program is a key program for us in Customs and Border Protection. I've been in this business for 32 years, Congressman, and we're always trying to strike that balance between enforcement and facilitation. We just don't deal with violators. We deal with legitimate trade and travel as well as individuals that want to come here and do us harm. So it becomes a much bigger picture for us in CBP.

What SENTRI does, it enables us to take that slice, if you will, of individuals that can go through a robust vetting process and give them special privileges, give them a dedicated lane to come into the United States on—into the United States. So, for us, it's an extremely important program for us. As a matter of fact, as of November 30, we will have over 152,000 enrollments in SENTRI. El Paso here accounts for about 15 percent, or 22,000. So it's a very, very important program for us.

However, you know, it comes down to infrastructure issues, as well. If you don't have the right—we think of infrastructure often-times as at the port of entry, but it also goes into Mexico and having the right road system so people can take advantage of a SENTRI program with dedicated lanes. So they can come in from the south into the United States in a SENTRI lane to expedite their clearances and to take that slice that we consider to be low risk and get them out of the equation and give them specialized processing. So the SENTRI program and the FAST program on the cargo side is extremely important to us.

Mr. DAVIS of Tennessee. Is there anything that we can do on the American side of the border to increase the use of the SENTRI program?

Mr. WINKOWSKI. Well, what we do is we continue to advertise the importance of SENTRI and encourage people to apply for SENTRI. You look at—when SENTRI started back in 1996, January 1, 1996, we had 361 enrollments. Now we're up to 152,000 enrollments. So

we've made a great deal of progress. We want more people to join SENTRI. SENTRI is important for us.

You have some obstacles from the standpoint of, particularly here in the El Paso area, the cost of the bridges over in Mexico. There's a, as I understand it, \$289 fee if you're a SENTRI, to have privileges of coming in and using the toll booth down south. I've been told that's been kind of an obstacle of people wanting to sign up for SENTRI. So we continue to work with the Mexican government, our border facilitation work group, on that particular issue.

But I believe we continue to push the importance of that. We have the right technology in place. Expanding lanes—we're going to be expanding a lane down in Laredo here shortly this year—and having the right infrastructure, not only here to accommodate SENTRI processing, but also down south.

Mr. DAVIS of Tennessee. If you were talking to the local people listening to the media today, what advice would you give on signing up for SENTRI?

Mr. WINKOWSKI. I would encourage them to go onto our net, find out additional information. We have enrollment centers here. And send in your documents. We've automated the entire process, and we have a very, very quick turnaround time. We have a vetting process up in Vermont that we have fully staffed. We have a very quick turnaround time, and then it comes down here for the interview and then you get signed up.

Mr. DAVIS of Tennessee. Okay. One last question for any member. What can be done to improve physical infrastructure at our land borders?

Ms. DOAN. I think that's actually our question. Some of the things that I mentioned before, but you cannot have a single-threaded approach to improving the infrastructure. We have a very formal process, a prospectus process that we submit to Congress of projects that we want to propose for the upcoming year. These are based on the priorities of our customer. In this particular case DHS identifies what these priorities are, and then we submit those to Congress for approval.

But in addition to that, there are other things that we can do. We can do renovations of the existing ports of entry, and these renovations do not have to be really expensive. It doesn't always have to be about money. We can change the booths, for example, in some of the locations to what they call high/low booths where they could turn the lanes into flexible locations where they could either be used to process commercial vehicles or they could use passenger vehicles because they could be a person high up to deal with trucks or low down to deal with cars, and suddenly one lane that had a fixed use could then become more flexible.

We have mobile booths that are already designed that we can move, and we use some of them, for example, in San Ysidro, and you can move those in, and that allows extra processing capacity.

But sometimes it can be just as simple as changing what constitutes the peak hours that are staffed at that port. Sometimes, if that happens, that can also help address the capacity issue.

There's actually a long list, and I am happy to share them with you. If you would like, I can follow up with some of the ideas that GSA has after this hearing.

Chairman THOMPSON. Now I yield 5 minutes to the gentleman from Texas, Mr. Cuellar.

Mr. CUELLAR. Thank you very much, Mr. Chairman. I think we've done a good job at putting resources for what I call the men and women in green, which is Border Patrol. We need to do more. I feel that we need to do more for the men and women that work blue, that is, the ones that take care of the ports of entry where legitimate trade is coming in. I notice the whole debate has been: What resources have we put in the border? It all has to do between the areas between the ports of entry. So I do want to focus specifically on this.

If you look at what the United States has done, a lot of the resources have gone to seaports and to airports—nothing against seaports and other areas—but if you look at the total number of people coming in to seaports, for example, the last figures we have, 2004, we have 14.7 million people entered the United States through seaports. That's about 3 percent of the people. Through airports we have 75.1 million, which is about 18 percent. Then we had 335.3 million individuals that came in into the United States, which is about 79 percent of the people entering the United States. One-third of them are U.S. citizens coming back, especially here in the border. The other two-thirds, of course, are of borders coming in.

The delays that I think we're all familiar with affects all of us. I think we've talked to Michael Patrick from Laredo, Texas, A&M International, and I think he gave a figure that I think Mr. Cook is going to about, that is if you add 1 percent decline in crossings, that would cost El Paso, the El Paso border region, \$76 million in retail sales and 1,500 jobs, which is about, per gross State product, could add up to about \$1.2 billion. Imagine if we were able to increase our efficiencies, and if we increase it by 2 or 3 percent or 4 or 5 percent, what that would mean for us.

One of the things that we've been looking at, and this is—I'm going to ask some specific questions, and I've got other questions of the assistant commissioner. We added House Bill 2431, which is Section 603, the border infrastructure and technology, technology modernization, to the omnibus appropriation bills, and there was some very, very specific things that we're asking there for you all to do to work with GSA.

The first thing we're asking for is for you to update, every January 31, your port-of-entry infrastructure assessment study. I'm going to ask you to—if you can have this ready by this January 31 because I'm sure that you all have been working on that. It does a whole bunch of things. It asks for a Nation-wide strategy to prioritize and address the infrastructure needs, duty assessments, port of entries' needs that we have. I think it's been estimated we need about, what, \$4 billion to do both the southern and northern area. It also calls for specifically a land port-of-entry security plan that is supposed to be updated and given to the appropriations and to the Homeland Security.

But there's one area that it also calls for, and I want you all to get back to me on this, if you don't have the answer now, is that it also allows funds to be authorized—to be used for certain international agreements, and there's one in particular called the U.S.-Mexico Border Partnership Action Plan. There's 22 parts to that.

It specifically talks about working with the Mexicans in relief of bottlenecks yet secure infrastructure, long-term planning, harmonization of port-of-entry operations, which, you know, usually we look at just the U.S. side, but this authorizes you to spend some money to work with them on the other side.

My question to you specifically would be: Can you meet the deadlines? Because I think at Homeland we've seen that they missed about 44—Homeland Security has missed about 44 congressionally mandated deadlines. Can you meet the deadlines under this appropriations bill, this Section 603?

Ms. DOAN. We will meet our deadline. We have 120 ports that we own. We have others that we lease. It is actually not the number that Mr. Stana mentioned. His figures were actually incorrect. But we manage and assess our property on a regular basis. We will meet our January 31 deadline for you guys.

The CBP actually has 45 locations that are fairly small that they also—and I know they have a list because I just saw it about 3 weeks ago—of all these ports of entries that they themselves have ownership of. I actually think this should be something that we can work together on to get and meet that deadline on time. But the GSA piece at least will come in on time.

Mr. WINKOWSKI. I agree with the administrator. We'll do everything possible to meet that deadline.

Also we work on our POE infrastructure on a regular, recurring basis with the GSA in updating the information. If I remember correctly, I think there was some legislation that had to be done every 2 or 3 years.

Ms. DOAN. Actually I was going to say, we have right here, for example, a list jointly developed between DHS and GSA for the most recent, what I call the hit list. It's the most critical locations that in CBP's eyes they thought were things that we needed to address, and we work on these on a regular basis.

I think we could do more, but you can always do more because I think rather than narrowing it down to the top 20, we really should just take all of our locations and just constantly list what needs to be done, what needs to be changed. So I think that's where we need to work a little more closely together. We've reorganized our land border port-of-entry division to do that.

Mr. CUELLAR [presiding]. So for both of you all, by the 31st we will get an updated look at Section 603?

Ms. DOAN. Yes.

Mr. CUELLAR. There's a series of things. The update on infrastructure to reduce wait time; the technology part of it also; the security plan, which is more for border protection; and the last section dealing with the international agreement dealing with—it's actually with both agreements, the one dealing with Canada that got entered at a different time and the one with Mexico. Would you specifically both of you all get back to the committees on this point?

Ms. DOAN. Yes, and we'll submit what we can. If there's something that looks, after we take a closer look at the language of the bill, if it looks like there's something that's going to be an obstruction, we will follow up immediately with your office to let you know.

Mr. WINKOWSKI. We will do the same.

Mr. CUELLAR. Okay. The last point is, Commissioner, back—I think we contacted you congressional folks first on 11/21/07, and we made an official request on 12/10/07, which is a letter sent off to Commissioner Basham, where I specifically asked for two things, and this is to help you as we start the appropriation process. Is, one, I asked for the total number of inspectors needed to fully fund—fully staff our Nation's ports of entry and the estimated cost to train and hire the needed Customs and Border Protection officers. I'm still waiting for that response. Again, we need that information so we know what the costs are, No. 1.

No. 2, the infrastructure requirements at our Nation's ports of entry, and what is the estimated cost of infrastructure requirements. I think you all need to work on that. We need those—that—it's been—I don't know how long it will take you, but it's been already 3, 4 weeks already. I know we had the holidays. But can you tell me when I can get a specific response to those two specific questions? Again, we're trying to help you.

Mr. WINKOWSKI. Right. My understanding is we're just about done, and something should be released in the next week or so.

Mr. CUELLAR. Thank you.

At this time I would like to—the Chair recognizes Mr. Carney from Pennsylvania for 5 minutes.

Mr. CARNEY. Thank you, Mr. Chairman. Commissioner Winkowski, we see that, according to GAO's report at least, that in fiscal year 2007, 53 CBP officers left the Agency each 2-week pay period. That's up from 34 officers in fiscal year 2005, almost a 60 percent increase. Why?

Mr. WINKOWSKI. Well, I think there's a number of reasons for that. I think you've got situations where Baby Boomers are retiring. We deal with a much different work force than we did when I came in 32 years ago, Congressman. These new employees, it's not unusual for them to have four or five different jobs. They're under a 401 Plan that they can take with them, unlike someone like myself that's under a pension system.

The other challenge that we've had is the whole issue of 6E coverage, law enforcement coverage. We'll see that officers will leave being CBP officers for a covered position.

I think the other challenge that we have—and I know you spent some time on the border today and yesterday—it's a difficult job. It's a very, very difficult job, and it's a trying job, and it's a challenging job. I think when you put all that together, it accounts for the attrition rate that we have. As a matter of fact, this year, last fiscal year, we had 10 percent, according to my numbers 10 percent attrition rate. Down here in El Paso was, I believe, a 7 percent attrition rate.

So we have a lot of challenges in management to make this job attractive, to get the best and brightest to stay with us and to move up into the organization.

Mr. CUELLAR. Do you think we need more U.S. military on the border, something like that?

Mr. WINKOWSKI. I believe that at the ports of entry, that we have coverage to handle that, from the standpoint of being able to process passengers and process the traffic that comes in. It's a highly technical job. You need to have the training. You need to go to the

academy. This is just not a job where someone comes up and you decide you come in or you don't come in. There's much more to it. So we need to focus our attention and our energies in making sure that we're hiring the best and brightest, that we're making the job attractive, that we're giving them the right skill sets and the training to do the job that we ask them to do.

Mr. CUELLAR. Mr. Stana, your November report cited a number of instances in which video records show inadequate inspections at the ports of entry. Can you describe some of those, please?

Mr. STANA. Yeah. The video was taken in calendar year fiscal year 2006, and what the video showed were instances where when shift changes would occur and a new officer gets into the booth, until he gets his computer logged on, he's waving people through.

In other instances a person would hold up an identification document in a window that was many feet away, and the person wouldn't get close enough to even read it but would wave someone through.

In other instances booths weren't staffed at all or people were flushed through in order to reduce some of the backlog that we're talking about here today.

As a result of that video, CBP put in a new program that required officers to have a closer look at documents and supervisors to review what's going on. In 2007 we sent our investigators to different ports and found many of the same things. This was in the summer of 2007.

In July 2007 CBP again came in with a beefed-up program, procedures, and actually—they're supposed to, anyway—visually take possession; after they take possession of the document to review it. I was disappointed to learn that—and this is strictly anecdotal, but an acquaintance recently went through a Southwest border checkpoint point of entry and was only asked how many people were in the car. Asked nothing about citizenship, asked nothing about identity. So, you know, the best-laid plans are only going to work if the supervision and the controls are there to make sure that they work.

Mr. WINKOWSKI. If I could just add to that, Congressman. I want to stress the point that the video, that was as a result of CBP playing a very, very proactive role in pulling video to make sure that we're doing what we need to do, and we found in some very, very isolated cases that was not the case.

We took very, very quick decisive action. We brought all the directors of field operations into Washington, DC and showed them the video. We required that they go out and show all the employees those videos because some of those procedures that those officers were doing were totally blatantly against policy. It does come down to management. It does come down to providing the right supervision, and we took the necessary steps to curtail that.

We're always looking at those issues. We're always taking corrective action. But I'm here to tell you that 99.99 percent of what we do out there is right. We can't deal with anecdotal stories and the booth is not staffed. Well, maybe there wasn't enough traffic to staff all the booths that particular day. But we take that very, very seriously.

Mr. CUELLAR. Mr. Stana.

Mr. STANA. Well, if it were 99.99 percent, I think we would all feel comfortable. We would all sleep well at night. But, unfortunately, when we had our investigators go out to the ports last year, it was not 99.99 percent. I think that CBP has taken steps aimed at mitigating these risks. Sometimes they're working; sometimes they're not. I'm not trying to portray anecdotes as the generality. Certainly there are hardworking men and woman who come to work every day and do their job and stop the people who shouldn't be coming into the country, stop the cargoes that shouldn't be coming into the country, but I am not going to say it's 99.99 percent effective.

Mr. CUELLAR. How is it that you assess that maybe some of the shortcomings are due to undermanning, understaffing?

Mr. STANA. I think that's a good part of it. I think some of the things we've talked about today: Staffing, training, infrastructure. There's one other element that we haven't talked about, and that's morale. Frankly, morale is an issue. About 88 percent of the people polled by OPM that work as CBP officers said that they understand the importance of their job, they understand its relationship to national security. However, only 9 percent said that they thought that pay was linked to their doing a good job, and only a third said they had all the equipment and resources they needed to do a good job. So there's a mixed picture there that has to be addressed.

Mr. CUELLAR. Ms. Doan, just quickly, I was very taken by your sort of strident testimony. You know, "Got to do it." However, the message is a little bit mixed for me. You want to do kind of a building surge, by your phrase, is that correct?

Ms. DOAN. Boom.

Mr. CUELLAR. Boom.

Ms. DOAN. Boom.

Mr. CUELLAR. A surge is something else. Okay. But if we see, as we found out, we don't have the staff, what good will a building boom do to staff new booths, new lanes, new bridges, new whatever?

Ms. DOAN. Well, first, I think it's important to know that this is our core competency so this is what we do best. To be very frank, while CBP has a lot of technology and innovative technological improvements that they're going to be deploying and are currently deploying along the border, the fact of the matter is it does take a long time. Those tend to be fairly lengthy implementations.

What I'm talking about, which is the boom, inspection booths. This is a hedge against a lengthy implementation of a technological solution. So it's a very, very basic, very simple solution, and it's a way to provide relief.

Now as far as the staffing, I have a lot of confidence in my colleagues at DHS that if we build it, they will come, because I think it's also a function of them looking at what constitutes primary hours. I don't think that this is something that can be decided nationally. It's not necessarily something that GSA should even be deciding or discussing. This is a CBP and a DHS decision.

But I will tell you that these solutions for staffing varies from locale to locale, and the local ports should be weighing in very strongly with the local stakeholders in making those decisions.

Here in El Paso, for example, I know for a fact that, for the most part, primary hours are considered like 8, but I think most people know that they have to start work at 8, so primary hours is probably more like 5:30 in the morning.

So when you build the additional infrastructure, when you're looking at the challenge of staffing—and they are dedicated professionals at CBP who work tirelessly to protect our country—we also have to allow them the opportunity to work the right hours to facilitate that free flow of trade, and so it requires us working closely together. GSA builds capacity; they staff it.

Mr. WINKOWSKI. I'm quite confident that we properly align our work force with the workload. We know what our peaks are, and those booths are staffed for those peak periods.

But as you were saying, Congressman, if you only have 14 booths and you have all 14 booths staffed and the capacity and the flow coming in, the volume, you need additional booths. That's where you start running into bottlenecks.

One of the things that has a great deal of promise is what we call double-stacking, which is what we're doing down in San Ysidro. As you saw, if you have the booth, you can put a booth in front of it, if you have the landscape, if you have the footprint. We're seeing a 40 percent efficiency rate there down in San Ysidro, and we're planning on expanding that and putting in an additional five or six booths.

We want to do that in some of the areas, as well, but as the administrator said, to do the construction—if you saw BDN, you know, it takes a long time to do state-of-the-art construction; that we have perhaps, in the short-term, can take some of these perhaps easier solutions from the standpoint of double-stacking and help out with the traffic flow and the cycle times.

Mr. CUELLAR. Well, I just want to say that my time at the border last night and at the point of entry today, I was extremely taken with the dedication and professionalism of everyone I spoke with. I asked them point-blank: What do you need? We need more bodies. We need more resources. Everyone told me that. That we have to make sure that we provide them. This is America's first line of defense.

Thank you, Mr. Chairman. I extremely exceeded my time. You're very generous.

Before I recognize the Chairman here, Mr. Reyes, some of those ideas are working. For example I know when Michael Jackson was there, Secretary Jackson, he talked to me about those double-stacking. If they're working, why don't we do some of that because they're pretty cost-efficient, we can do that, we can move that. If it takes, you know, GSA 7 years from design to delivery—and I know you all are working on consolidating and streamlining the process, but some of these things don't cost that much, because as you know and I think Mr. Reyes and Mr. Rodriguez, that—you know, for example in Laredo we have several ports there. We handle—I think El Paso handles a little over 50 percent of all the trade between the United States and Mexico. Laredo handles over 40 percent of all the trade. In some of those ports—you've got new ports of entry, but some of the old ones, they're constrained so you

can't expand. So the only way you can expand, by putting those entries, so why not do that?

Mr. WINKOWSKI. Well, we are planning on doing that.

Mr. CUELLAR. But when?

Mr. WINKOWSKI. We were testing this down in San Isidro, okay, and we have, as I mentioned, a 40 percent efficiency rate. We've also had a technology issue from the standpoint of the RFID readers and which booth is that particular read going to come up with, and our OIT people have found a solution to that. So now that we have a budget, we're planning on expanding that in San Isidro to another four or five booths and looking for other locations, as well.

But we need to have a footprint. As you know, Congressman, not every one of these ports of entry have a footprint, because you have to have enough real estate in front of that other booth to put another booth. So those are the challenges that we face, but we are certainly looking at expanding that.

Mr. CUELLAR. Make sure you include all of that in this Section 603, please.

At this time the Chair recognizes Mr. Reyes.

Mr. REYES. Thank you, Mr. Chairman. I want to express again appreciation to the panel for some great testimony.

You know, as the only Member of Congress that has actually worked as an inspector at those bridges for 4 years, I can tell you that's a tough job, and that's why I'm particularly interested in ideas on how we can make it more attractive.

One of the points—and I know when I met—when I spent those 3 hours there with them and Assistant Commissioner Kern, one of the programs that has worked well in the past was a program of When Actually Employed, the WAE program. I know that somebody is opposed to that program, but I continue to have questions because we know we're having a tough time recruiting people. We know that's a very tough job.

By the way, I want to acknowledge one of our shining stars here locally, Port Director Isabel Mullens, with whom I had the privilege of working when I was at the bridges a long time ago, with her, who has become a very dynamic leader. She was there when I spent those—

Mr. WINKOWSKI. Absolutely, I agree with you.

Mr. REYES. I think it's important that we maybe reconsider the WAE program because, in the past, you hire locally and you hire school teachers, sheriff's deputies, others that have the ability to, on a part-time basis, work at the ports of entry. They become a natural stream of recruitment because they get an opportunity to work those bridges, they get an opportunity to get the training because every WAE employee is fully trained. They're trained to the same level as the inspectors, and in the future we can draw from their ranks. We're having a tough time recruiting, so I will again make the pitch: Please reconsider the WAE program.

As we talk about the many different challenges that we face on very many levels, thank you very much, Administrator Doan, for being somebody that is willing to think outside the box, somebody that wants to solicit ideas on how we can do this job better. The kinds of challenges that we face can be greatly augmented by the technology that's both available today—and we all know that tech-

nology changes every 6 months, but I think technology is an important key piece of our ability to do that. As we're here locally, as we're thinking of a new bridge, a completely new bridge—and I discussed this with you both when you visited here last time and also when we met with Commissioner Basham.

Can you comment on the feasibility of building a bridge that has a backbone system for technology that could be easily modified for incorporating future changes in technology? That's the first question.

The second question is: The concept that I would propose to you of having, whether it's a 10, 12, however many new lanes are going to be put in place in this new bridge here in our community, of having that bridge be multidirectional. That is, if we know the traffic is heaviest from 5 a.m. to, say, 9 a.m. in the morning, have all the lanes from that bridge going into El Paso from Juarez because that's—those are the peak times. Then, conversely, if the traffic flow goes back from, say, 4 p.m. to 6 p.m. or 7 p.m., have them all flow back the other way. I think for this new bridge that we're considering here, that's worth a multidirectional bridge that can function at peak hours both ways. The rest of the hours it can revert back to the normal four in/four out, however many lanes there are.

Can you comment on the feasibility of that, and what other things we might be able to do as we wrestle with this very tough problem? Because we do have outstanding, dedicated individuals that work that very tough environment. I think I mentioned to you last time we were at the Paso del Norte, when I get around the bridge I still start shaking because I remember the 4 years that I worked there. So I can't say enough about the employees that work under those very stressful and very trying conditions. So can you comment on this?

Ms. DOAN. I think the bridge, the new potential for the bridge around at BOTA is really an exciting opportunity here in El Paso. I know it's something that our folks at GSA are working very closely with State and local officials as well as the other local stakeholders, including TXDOT, to try to make it a reality.

Just one or two things so that I don't go on too long. I think the reason why it's so exciting is because we have a chance to do something really different. We have a chance to be able to have a bridge that could—for example, the lanes could be totally dedicated only to FAST, which then frees up the regular traffic on BOTA 1, or whatever we're going to be calling the new one, to just be used for regular vehicles. This is another way we can do it. We can do the thing with the lines.

We could make this a totally modular or scaleable technology solution for more plug and play. So, in other words, rather than having the technology wired into the booth, it could be actually something that could be totally modular, portable. It could snap and go so that you could adjust the use. You could have, as I mentioned, the high/low booths so that you could do different types of passenger vehicles, if it weren't going to be used for the FAST lanes.

But more importantly, each of you knows, because you're in Washington all the time, we do this in Washington all the time. Fifteenth Street, depending on what time of day it is, the direction of the traffic totally changes in another direction. That's another

opportunity. If we work on—we have a product that we use at GSA, and we share it with CBP and Department of Transportation, called Border Wizard. It allows us to map traffic patterns, among other things. These are the kinds of things that we can work with CBP to do, which is have that unidirectional traffic during peak hours, agree on what the peak hours actually are, obviously, and then modify it accordingly. So I think this is an exciting opportunity.

I am very supportive, and I know that my team is also very supportive. In fact, you know Tye Debarry, guys, the senior advisor for Region 7, is working very closely on this project with the State and local stakeholders here. So I'm happy to come up with a list of ideas and provide them for you after this.

Mr. WINKOWSKI. I totally agree with the administrator. I think we've got to think differently. We've got to have flexibility in our facilities. Our facilities need to be able to accommodate all the changes that we've made with installation of license plate readers and radiation portal monitors and all that technology that we use. So I'm real excited about having a port of entry that we can kind of collapse and expand as need be based on traffic patterns. So I'm a strong supporter of that.

Ms. DOAN. It might also give us an opportunity to explore the use of annuitants and the WAE because maybe for those extra peak, or primary hours from 5:30 to 9 or something, until everyone could decide what constitutes primary hours, maybe that's a perfect opportunity for those guys to help us out.

Mr. REYES. Thank you, Mr. Chairman. One of the things that we need to continue to focus on in this committee are very aggressively seeking ways to find better inducements for recruiting because that is a very tough job at those ports of entry, and we tend to either burn people out with overtime or not staff it up to where it should be. So the staffing survey is critical and also ways to do incentives so that individuals will consider that as a—

Mr. WINKOWSKI. I agree.

Mr. CUELLAR. I think Chairman Reyes is correct. There is some resistance from your Department on this program that he's talking about by trying to recruit some of the teachers or the—and I can understand, you know, it's the laws and all that, but I think you can train people. I agree with the Chairman that we ought to look at that.

The second thing I would ask you, also, as the Chairman is mentioning, is that is Homeland still 35 out of 36 agencies in morale? Wasn't that—was it 35 out of 35 or 36 out of 36 at the bottom?

Mr. WINKOWSKI. It's down at the bottom of the list. I don't know exactly how far down it is.

Mr. CUELLAR. I'm sure the union will give us a specific ranking on that.

We've got to provide those incentives to do that. You know, I know it's hard and I know that we just passed making the Customs inspectors law enforcement for retirement. That's going to help our retention and recruitment on that, but whatever we can do—and I think one of the things Mr. Reyes and I have been talking about, why don't you all give—or ask this: Why not give the local folks, like Mr. Gene Garza or the person you mentioned, ability to hire

people instead of all being centralized? I bet if you gave it to one of them, they'll hire the people. Like in Laredo we've been waiting for 100 inspectors. We haven't gotten them, and it's been about 2 years since we've talked about this. Why not give them some local power? I'm sure that your person, if they're short, they will hire people. They will find the people. I mean you can still do the background checks and all that, but you've got to do what Mr. Reyes is saying. We've got to think outside the box.

Mr. WINKOWSKI. We can look at that, and we have a nationalized test. We have been able to get some excellent officers off that nationalized test, which is centralized in Washington, DC. We used to have direct hire authority. We no longer have that. We use that test, and we're getting applicants and individuals that I put in the category of the best and brightest.

I think one of the things that we need to caution against here is, we keep talking about how we came up 35 out of 36. I will tell you, with this merger, this merger was very difficult. When you merge—when you take, you know, parts of the Immigration Service and the Customs Service and parts of the USDA and with different business cultures and different departments and different policies and put them all into one agency such as CBP with different union contracts and all those challenges that we have, you have some challenges there, and it's hard. It was a difficult time. I mean it was March 2003. It was a very difficult time for everybody, and I think we need to keep that in mind.

I think oftentimes I read these reports that, you know, whether 35 out of 36, we're not proud of that. Commissioner Basham is very focused on that. We've done focus groups around the country. He's very concerned about it, and we're working our way through. But we have to keep in mind here that we didn't come over intact. You know, we're not one of those agencies that just came over intact and everything is the same. Our whole world changed. From a standpoint of—at the time, I was the director of field operations in south Florida with over 2,000 people, and those were difficult times for all of us.

I think it was the right move. We have one port director responsible for, you know, Miami International Airport. Down here, we're down in El Paso, Congressman Reyes, when you were WAE, you had an INS port director and a Customs port director and a USDA port director. But that's not good border management. We have one port director now, so there's a lot of positives. But we have to keep in mind that was a very, very difficult time, and people in these surveys have a tendency to express that.

I'm certainly not making excuses. We need to do better. I've seen some of those findings, and some of them focus in on the leaders of this organization and managers, and we've got to do better in that.

Ms. DOAN. I know it wasn't my question, but this is in his defense, which is perhaps some grade increases. Tye, my senior advisor, mentioned that we have—at CBP apparently there are a lot of new hires who have degrees who are only GS-7s with master's degrees. They're GS-9s. Honestly, at GSA we have secretaries with college degrees who are GS-11s. So maybe getting some more par-

ity in the GS level for the CBP officers who are putting their lives on the line would help them, also.

Mr. CUELLAR. I think you're going to find a lot of Members are very supportive, but we need your input because, look, I can understand we put 22 agencies together, but that was 5 years ago, over 5 years ago. It took us 4 years or less to win World War II, to win World War II, and here we are, 5 years later, we're still talking about the difficulties. I understand that, but work with us, you know. Let's work together because you're going to find a lot of Members that want to help you to make your job better and for the men and women who serve you all.

But at this time I'm going to go ahead and recognize Mr. Rodriguez for 5 minutes.

Mr. RODRIGUEZ. Thank you very much, Mr. Chairman. First of all, Ms. Doan, let me thank you for the efforts that we had and the difficulties we had in Eagle Pass with the bridge there, and thank you very much for really getting down there and trying to—we haven't found the solutions yet and we haven't ironed out the whole problems there, but you've been extremely helpful there with that bridge in Eagle Pass and the problems that we've encountered.

Let me throw out two other additional things that I wanted to discuss. You mentioned about a big boom. I have a bridge that was closed. It's already there. You don't have to make a boom. All we need to do is open it. It's the La Linda Bridge. If you look at traveling between here and the Valley, you go from Presidio to Del Rio, there's 400 miles. The bridge is in between there. It was never an official bridge. It's also known as the Hallie Stillwell Memorial Bridge, and it's one that where the constituency has been talking about how we can open that.

It's a small community, but we get a lot of tourism there. There's a million people that visit the Amistad Dam. There's 350,000 people that visit the Big Bend area, and a lot of them travel through there. But I'd like to see how we might be able to expand and the possibility of opening the La Linda Bridge, if possible, there in the Big Bend region, which is in Brewster County. That request has come in, and I don't think it would take much except trying to hire on some of the bureaucratic problems that exist there, and I would ask you to make some comments on that.

But before you do that, let me ask also the second question. As we had difficulties and have contradictions coming across in terms of the waiting periods, in January we're expected to move forward on beginning to look at license plates—I mean, excuse me—driver's licenses, you know, and IDs. First we were told that a driver's license was not legitimate enough. Now we're going to go to look at it. We've been postponing the passport down to now to June. So all those are going to—as soon as we implement either the passport in June or—because we've all got calls on the passports and how difficult that was.

I guess this goes to Ms. Stana from Homeland Security, that we need to have the staffing right now. I've got people in Del Rio that have difficulty and are waiting for their passports. These are U.S. citizens, not people coming from the other side. So how are we going to expedite and make that happen so that we will be ready, No. 1, for June with the passport stuff? On the other one, in Janu-

ary when they start coming across and we start asking them for birth certificates and license, you know, how are we going to make sure we expedite that aspect of it? But I don't want to lose track of La Linda Bridge, okay?

Ms. DOAN. We won't lose track of it, and although I don't have any information on that right now, I have written it down. I will take this on personally and work with my folks and get back to you with an answer on that. I do believe you will have to work closely with CBP because I actually don't think this is one of our ports. I think this is actually a port that CBP—remember I mentioned they have 45 that they own, and I think they may have closed it. But we're happy perhaps to consider having you deed it over to us and take ownership and take the management.

Mr. RODRIGUEZ. We found the solution already.

Ms. DOAN. We'll lease it back to you. I will follow up with you on that.

Mr. WINKOWSKI. I will follow up on that, also. I'm not familiar with that, Congressman.

Mr. RODRIGUEZ. Thank you.

Mr. STANA. With respect to WHTI, which is what I think you're referring to, the Department of State has hired up people to handle the transport backlogs. I don't know how successful they've been, but they had a real problem last summer because there was a rush, particularly from people from the northern States, frankly, to get their passport in anticipation of WHTI's implementation, to get that taken care of. So with the implementation also of the new PASS card, I think you referred to, U.S. citizens can get. It's like a passport light, helps you get across borders. They're machine readable, RFID readable. These are things that, frankly, could help expedite border inspections.

The whole key here is to find a needle in the haystack, you know. Most people—the vast majority of people crossing the border are legitimate travelers. They're not bringing any contraband into the country. We want to identify those people and get them through. That's why SENTRI, NEXUS and FAST are important programs. But with these identification documents that are machine readable, it could also expedite the inspections process by not having inspectors question whether this one document among 8,000, which can be used to cross the border, is legitimate. So that could help.

Mr. RODRIGUEZ. Are we going to have another difficulty come January 15, Commissioner?

Mr. WINKOWSKI. If I could add a couple of things there. I met with State Department last week on several issues regarding WHTI implementation, the January 31 implementation of driver's license and birth certificates. I asked him about passport turn-around times, and they said it was 3 weeks.

Mr. RODRIGUEZ. Three weeks?

Mr. WINKOWSKI. Three weeks. That's what their cycle time is right now. I certainly don't mean to be here testifying on their behalf, but I was at a meeting. I did want to share that with you. Very, very quick they've hired up, they've plussed up a lot. They're turning passports around very quickly.

Passport Card, the Federal registry notice just came out. It was effective February 1. So individuals will have an opportunity to get

a Passport Card rather than have a passport and using that passport to cross back and forth on the land border.

On the January 31 implementation, we are moving forward with that, requiring anybody 19 or older to have a Government-issued ID and birth certificate. If you're younger than 19, then you have to have a birth certificate now.

We're beginning that process of getting travelers used to carrying documentation. As you know, a U.S. citizen can come into this country on the northern border, southern border and say hi, I'm a U.S. citizen. They don't have to provide any documentation. All those rules are changing. WHTI implementation, full WHTI implementation, will be June 2009. So we're going to have some time here to get the traveling public used to carrying documents, No. 1.

No. 2, encouraging them to get passports or WHTI-compliant documents such as a SENTRI card, a NEXUS card, a Passport Card, so when we are up and running with full WHTI implementation in June 2009, everybody will have the proper documentation. So we're working very hard on that.

What's going to happen on January 31, there's going to be a very, very common-sense approach. You come up. If you don't have a birth certificate, we're going to determine the citizenship, and we're going to give you a tear sheet that explains what the requirements are. Our experience has been, the vast majority of the traveling public will comply. We saw this on the air side when we went up with air WHTI in January 2007. People from certain parts of the country, from the world could travel, come into the United States via air without a passport. We are now at 99.99 percent compliance.

So we're very encouraged. We're taking a common-sense approach here, and we're real encouraged that by the time we go to full WHTI implementation, that the traveling public will have the right documentation.

Mr. RODRIGUEZ. Do we have any idea how much delays that will cause in addition in terms of showing their—

Mr. WINKOWSKI. Well, right now, my numbers show that coming in on the—I believe it was the southern border, 7.1 million U.S. citizens do not have WHTI-compliant documents, and up at the northern border it's 4 million.

We're going to have a training session this month. We're hopeful that it's not going to add a great deal of time once the officers get used to this, once the traveling public gets used to it. But being perfectly frank, it could result in some delays if people don't have their documents ready. So we've hired a PR firm; we're out educating the public on this. We're very, very encouraged. We're starting in the slow time of the year here. We're not in the summer, in the middle of the summer starting this. We're here in kind of the slow time of the year. We will monitor it very, very closely.

Mr. STANA. I would agree with that. I'd also add that a lot of the concern was with WHTI implementation, which is now pushed out to June 2009, if I remember right, but the real concern should be with the end of oral declaration, which is going to happen at the end of this month, because that's when you have to produce documents to prove citizenship and identity. To the extent that WHTI-compliant documents could help, you know the more people that

get those documents the shorter the lines are going to be. Because the requirement will be for CBP officers to physically handle documents that show citizenship and identity, and a driver's license only shows identity, not citizenship.

Mr. WINKOWSKI. We're not saying that the driver's license now is a secure document. We're not saying that. We want people to get the WHTI-compliant documents. But in the meantime here we understand that some people just have passports—excuse me—will just have a driver's license and a birth certificate, and it will be the end of the oral declaration.

Mr. RODRIGUEZ. Yeah, I know you mentioned and I wrote that down. You said 3 weeks because I know—and I'll get back with my staff because I know we had cases of individuals, by the time they call us, that they have been trying to get their passport for some time.

Mr. STANA. Last summer there was a real bottleneck at State, and they hired up—there were many people who were trying to get passports before—

Mr. RODRIGUEZ. In Del Rio, for example right now, they cannot—the post office there is—wasn't even handling it, because it was backed up. They just had too many.

Mr. STANA. As I say, last summer with all the bottlenecks, it was a legitimate concern. It was taking much longer. They were getting people from the State of Washington to volunteer to come to passport centers temporarily on TDY to deal with the backlog, but I believe they've got that pretty much under control now.

Mr. RODRIGUEZ. I'll get back with you because I have the opportunity, on the appropriations side when I see you for the next future hearings, so in 3 weeks I'll remember that.

Mr. STANA. Okay. Remember it's State that did it, not GAO.

Mr. WINKOWSKI. I'm just the messenger on that.

Mr. CUELLAR. Let me just follow up on what Mr. Rodriguez said. Were you seeing—we're going to use passports even though they have been postponed till June 2009. We want to use passports because we say the driver's licenses and other documents are not secure. Now on January 31 we're saying: Guess what? We are going to start using those documents that we considered not to be secure and are for more identification, not for citizenship. Why are we going to go away from the oral declaration when we already have said that those documents were not secure? Why go through that—

Mr. WINKOWSKI. Well, the oral declaration, you don't have to show any documentation. You just say: Hi, I'm a U.S. citizen. What we're saying is we've got to begin that process of getting the traveling public used to presenting documentation to us. It's going to be a major change.

Now, what we're hoping and what these tear sheets will do is explain a better way of doing it with the PASS card or with the SENTRI card or the enhanced driver's license that the State of Washington will be coming up with this month, transitioning the public into those more—into those more secure RFID documents.

Again, you know, I understand that the airport environment is much different than land border, but the transition up there in the airport environment went very, very smoothly, and we think that

it will go smoothly, as well, on the northern border. We're going to have some spikes. We have people that are used to not presenting documents or just having a driver's license, but we're going to take a common-sense approach. We're still going to establish their citizenship with them and try not to have any kind of delays in primary and educate them with the tear sheets.

Mr. CUELLAR. Could you follow up on where Texas is on the enhanced—I know that Texas was—there was an issue here in Texas. Do you know what the latest is on the enhanced driver's license for the State of Texas?

Mr. WINKOWSKI. I have to get back to you, but the last I heard we were in discussions with them. We had not signed anything with Texas. I know, obviously, we've signed with Washington State and Vermont. We're close with Michigan. But with Texas, we have not signed anything yet, if I remember correctly.

Mr. RODRIGUEZ. Mr. Chairman, can I follow up? Let me ask you, we just talked to some of the State people, and they were telling us that it was the Federal Government that had not come up with the guidelines that were needed in order for Texas to move forward. I'm not sure whose—where the problem is, but that's what they indicated. Do we have a problem in terms of telling Texas what they need to have on that document and that's why they haven't moved?

Mr. WINKOWSKI. No. We sat down with the State of Washington and worked it out. I have not heard of any of those issues in the State of Texas.

Mr. RODRIGUEZ. What's the problem, then?

Mr. WINKOWSKI. I don't know. I will find out. We obviously want Texas to be issued enhanced driver's licenses. It's a big piece of the landscape in here and on the border. I will follow up and find out exactly where they are.

Mr. RODRIGUEZ. Because my understanding is if they do move, we have put, what, \$50 million in there or something, that amount to be able to move forward on that and be able to get that so people can just show their driver's license and it's enhanced driver's license, be able to have no problems, you know, be able to come back and forth?

Mr. WINKOWSKI. It's RFID technology. It's not a trusted traveler program, but it establishes your citizenship.

Mr. CUELLAR. Will you get back to all of us, and in particular, the Texas—

Mr. WINKOWSKI. Yes.

Mr. CUELLAR. Thank you. At this time I want to thank the panel. I want to thank all three of you all. I know that it's very challenging questions, a very challenging time, but we do need to find this balance between security and commerce on that.

Again, if there's any other questions that Members might have, we will go ahead and have those questions be submitted for the record, and I would ask the committee to turn those answers in to us as soon as possible. Thank you very much and Happy New Year.

We're going to start getting ready for the second panel of witnesses. Just for the sake of time as we're moving on, I would like to welcome the second panel of witnesses. I know we're having those transitioning just so we can keep it moving.

Our first witness is going to be the national president of the National Treasury Employees Union, Colleen Kelley. Membership includes nonsupervisory Customs and Border Protection officers, several hundred members that work here at the El Paso land ports of entry. As the union's top elected official, she is at the forefront of the efforts on behalf of Federal employees, including Customs and Border Protection officers, for making sure that they get paid in the right working conditions.

Our second witness—as we're moving on, I would ask the witnesses to move forward over here—is Kathleen Walker, an El Paso attorney who currently serves as president of the American Immigration Lawyers Association. She also serves as the chairperson of the Immigration and Nationality Law Board certification exam committee for the State Bar of Texas and on the advisory committee. As such she is a strong advocate for border community interests and the implementation of border security and immigration law.

We believe our third witness, Mr. Bob Cook, there was an emergency and he will not be able to join us. I know—we're trying to get him? Okay. If we do get another replacement, Mr. Reyes will let us know. It would be good to have a replacement simply because I would like to—I think all of us would like to hear the economic impact of why we need to make sure we keep legitimate trade of goods and services moving.

So Members, if we're all ready.

Mr. REYES. Mr. Chairman.

Mr. CUELLAR. Yes, sir.

Mr. REYES. Before we get started with the next panel, can I ask for a Chairman's consent to put some documents into the record?

Mr. CUELLAR. Yes, sir, without objections.

Mr. REYES. I'd like to enter into the record the business anti-smoking coalition document, also a recently published book entitled *Contemporary U.S.-Mexico Border and its Future*.

Mr. CUELLAR. Without objection.\*

Mr. REYES. One more item. I'm told that our recently retired director from Customs and Border Protection is here in the audience, and I just wanted to acknowledge him. He retired after, I think, 34 years, but most importantly he has been very instrumental in making recommendations to both Chairman Thompson and myself on issues dealing with border security, homeland defense and intelligence. I would just like to recognize former Customs and Border Protection director, Luis Garcia. We appreciate you being here. Thank you very much.

Mr. CUELLAR. What we'll do is if you do get the other witness—

Mr. REYES. Mr. Chairman, it's my understanding that according to our committee rules, we cannot substitute a witness at this late time, so we'll move forward with just these panel members.

Mr. CUELLAR. I would ask Members to look at Mr. Bob Cook's statement. There is very good information there about what happens when you have delays and what sort of impact that is, so I

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\*The information has been retained in committee files.

would ask Members to please read his testimony. It's very well written.

Without objection, the witnesses' full statements will be inserted in the record.

[The statement of Mr. Cook follows:]

PREPARED STATEMENT OF BOB COOK, PRESIDENT, EL PASO REGIONAL ECONOMIC DEVELOPMENT CORPORATION (REDCO)

DECEMBER 15, 2007

Good morning and welcome to El Paso! My name is Bob Cook and I am the President and CEO of the El Paso Regional Economic Development Corporation (REDCo)—an organization whose mission is to recruit new industry to the El Paso area, an area that includes El Paso, Texas, Ciudad Juarez, Chihuahua and Las Cruces, New Mexico.

First of all I would like to thank you for this opportunity to address you today. I consider it a great privilege and responsibility to appear before you and provide testimony about the transcendent need to deploy improved methods and technologies to secure America's borders, while at the same time improving the flow of legitimate cargo and people across the U.S.-Mexico border. The people of El Paso understand the need for enhanced national security, but we are acutely aware of the fact that economic security is threatened with less efficient ports of entry—which we believe leads to lessened national security. Because of our long-standing relationship with Mexico, there are many in the public and private sectors of El Paso/Juarez who can provide expert advice as to how our Nation can effectively address such matters—because we deal with these issues on a daily basis.

As a resident of the El Paso/Juarez area, one of the largest bi-cultural border communities in the world, I have many close friends and business associates on both sides of the international border. I want to be very clear with two messages today . . . First, 3-hour wait times which have become common at our international ports of entry do not equate to greater national security. Second, the building of a wall along the southwest border is both an insult to our neighbors and allies in Mexico and truly un-American in nature. We in the business community feel that we have an open line of communication with our port managers, but we believe that they are hampered by a flawed system. The clear flaw of the system now in place is that there is little distinction made in the approach to distinguish between legitimate and illegitimate people and cargo. My point is that we should be seeking to aggressively expand the use of technologies and procedures that identify and expedite low-risk traffic, in order that we may spend the majority of our time and financial resources on the potentially high-risk individuals and cargo carriers.

El Paso and Ciudad Juarez are mutually dependant on each other for their economic well-being. Improvements must be made to reduce wait times on the bridge especially in light of the fact that American citizens will soon be required to show a passport as they travel back from Mexico. Because of our longstanding relationship with Mexico, the people of El Paso understand the need for enhanced security, but we are also very aware of the fact that decreases in border-crossing efficiency lead to economic insecurity. In fact, we firmly believe that the efficient cross-border transport of legitimate cargo is a vital component of the well-being of the economy of the city of El Paso, the State of Texas, and the Nation as a whole. In 2006 there was approximately \$50 billion worth of trade that passed through El Paso's ports of entry, or roughly 15.2 percent of the total trade between the United States and Mexico. Another \$154.3 billion in goods (61.7 percent of all U.S.-Mexico trade) crossed through other Texas ports, and a total of \$54.8 billion in exports (40 percent of U.S. exports to Mexico) originate in Texas. Increases in bridge times can lead to reduction in this trade, placing some portion of this economic engine at risk.

A recent study by Dr. Michael Patrick, Director for the Texas Center for Border Economic and Enterprise Development at Texas A&M University concluded that a 1 percent decline in crossings would cost the El Paso border region \$76 million in retail sales and 1,500 jobs. This would equate to an estimated decrease in Gross State Product by \$1.2 billion. If these findings are correct, imagine what we could accomplish economically with a 2 percent or 3 percent improvement in border crossings.

Allow me please to bring this down to impacts at the local level . . .

El Paso retailers depend upon Mexican consumers for their livelihood. Mexican nationals roughly \$1.5 dollars in El Paso retail stores each year, roughly one-fifth of El Paso's \$8 billion retail economy. Each time the Department of Homeland Secu-

rity issues an elevated level of threat awareness, or any other issue that causes an increase in bridge crossing times and a resulting decrease in crossings of legitimate persons, the impact is immediately felt at the cash register in El Paso.

Approximately 50,000 El Pasoans derive their livelihood, either directly or indirectly, from the maquiladora industry in Mexico. In the city of Juarez, there are almost 350 maquila operations, approximately 85 percent of which are owned and operated by U.S. corporations. Approximately 3,100 people live in El Paso and cross the international border each day to work as a plant manager, engineer, or other professional occupation in these operations. Additionally, there are an estimated 5,500 persons who are direct employees and another estimated 14,000 number work in a wide range of support industries including plastics processing, metals processing, packaging, financial institutions, and more. There are 30,000 jobs in the El Paso area that are indirect spin-offs of the maquiladora industry in Ciudad Juarez.

The sheer volume of cross-border traffic clearly presents a monumental challenge to those agents who are at the ports of entry, working on the front-line of providing for the security of the homeland. Border crossing figures demonstrate that average daily border crossings include 42,648 private vehicles, 2,122 commercial trucks and 20,547 pedestrians—all traveling northbound from Mexico through El Paso area ports of entry. The numbers suggest that we must find more effective technologies and procedures to move these volumes on a daily basis.

I do not claim to be an expert on the matter, but I am aware of technologies which can have a impact on the easing of bridge crossing times for both civilian and commercial traffic. By utilizing prescreening processes such as those deployed in the Dedicated Cargo Lanes and FAST Lanes, combined with technologies such as SENTRI and NEXUS, along with non-invasive scanning processes such as PFNA and Back Scatter X-ray—bridge crossing times can be reduced, while at the same time ensuring a greater degree of security.

While I understand that you are primarily interested in hearing about the impact of bridge crossing times, I am still compelled to comment on the human side of the national security issue. We are confronted with the prospect of having a fence being built along the border. As I said earlier, the proposed fence of separation is an insult to our neighbors in Mexico and we should not treat friends and neighbors in such a way—especially a neighbor that has been a dedicated and substantial trading partner. The message that a 370-mile fence along our shared border sends is not one of goodwill and appreciation, instead it is one of protectionism, separation and alienation. We would suggest that rather than building a physical wall, Congress should consider investing those funds in building better surveillance and intelligence technologies, “smart bridges”, and other approaches that can help enhance national security by enabling agents to inspect a greater amount of cargo and vehicles in a smaller amount of time. Implementation of such a strategy will spur sustainable economic growth of border communities which will positively impact Federal revenues. This will in turn lead to enhanced security along the border—an approach to security that will be effective instead of offensive.

Mr. CUELLAR. I'll now ask each witness to summarize her statement for 5 minutes—there's only “her” statements—beginning with Ms. Kelley.

**STATEMENT OF COLLEEN M. KELLEY, NATIONAL PRESIDENT,  
NATIONAL TREASURY EMPLOYEES UNION**

Ms. KELLEY. Thank you very much, Chairman Cuellar, Members of the committee. I thank you for the opportunity to testify here in El Paso today.

NTEU represents Customs and Border Protection officers, agriculture specialists and trade enforcement employees at Homeland Security, including over 800 CBP employees here at the Port of El Paso.

I do not have to tell the people of El Paso that there is severe staffing shortages at our border crossings. They live with the long lines. For years NTEU has been saying that CBP needs several thousand additional officers at its ports of entry, that insufficient staffing and scheduling abuses are contributing to morale issues, to fatigue and safety issues for CBP officers; that CBP is losing offi-

cers faster than it can hire replacements, and that these officers who risk their lives every day deserve law enforcement officer status. Now GAO is saying that, too. I know the people of El Paso join me in demanding that CBP management acknowledge these problems and take action.

CBP officers have twin goals: Anti-terrorism and facilitating legitimate trade and travel. On the one hand, CBP officers are to fully perform their inspectional duties yet at all times they are made aware by management of wait times. In land port booths wait times are clearly displayed. NTEU supports efforts to shorten wait times, but let me be clear: There is no way to reduce wait times at the border while maintaining adequate security measures without increasing the number of CBP officers.

GAO testified today that CBP's own staffing model shows that several thousand additional CBP officers and agriculture specialists are needed at our ports of entry. NTEU has called on Congress for an increase of at least 4,000 new CBP officers, and we believe that at least 300 of these should be assigned to El Paso in order for all pedestrian and vehicle lanes to be adequately staffed. Both in El Paso and nationally, staffing shortages are exacerbated by challenges in retaining staff, contributing to an increasing number of CBP officer vacancies.

One of the most significant impediments to the recruitment and retention of CBP officers has been the lack of law enforcement officer status. The newly issued GAO report noted that officers are leaving to take positions at other Homeland Security components and other Federal agencies to obtain law enforcement officer benefits not authorized to them at CBP. There is some good news here. Congress recently approved legislation to provide CBP officers with law enforcement officer coverage prospectively, and I want to thank this committee, under Chairman Thompson's leadership, for your support and leadership on this effort.

Now I plan to ask for your continued support to ensure that this law enforcement officer legislation be implemented as it was passed. As you know, the White House has been opposed to law enforcement officer status for CBPOs. I am concerned that the White House will actively try to eliminate this provision for LEO coverage for CBP officers, and I am asking for your help to not let that happen. It would be a grave injustice to the deserving men and women who protect our ports of entry every day.

There are other major issues that have a negative impact on the retention of CBPOs, and they include the proposed new Homeland Security pay and personnel systems and CBP's unilateral elimination of employee input into routine workplace decision-making such as work shift schedules. They are losing CBPOs faster than they can hire them, and they are not addressing the retention issues on any front.

In El Paso, CBP officers have been scheduled for what are called free doubles, back-to-back shifts, 16 hours, that straddle two different pay periods, with the intent of avoiding the payment of overtime to these officers for the second 8-hour shift, an appalling way to treat employees, and it's these kinds of things that add to the morale and the retention problems.

In El Paso, CBP officers are frequently required to work varying shifts within the same pay period; for example, an 8-to-4 1 day, 4-to-midnight the next day, midnight-to-8 a.m. the next day. These schedules have been altered daily with no notice, making it impossible for CBP officers to have any certainty in planning personal or family activities during off-duty hours and causing CBPOs to leave the agency.

Also, in order to avoid a pay differential that is required for commuting time when an officer is called back to work, port managers will order officers on the premises to unscheduled overtime duty. CBP officers are often held over in a booth rather than bringing in a fresh officer, to avoid paying this commuting pay. Scheduling abuses, along with short staffing, have produced overworked officers, safety and overtime violations, and concerns about favoritism in the assignment of work and overtime that have resulted in CBP officers leaving in droves.

NTEU recently won an arbitration decision that found that CBP had not been abiding by existing Federal laws that require employees to receive 1-week notice of their work shifts, to be scheduled so they receive 2 consecutive days off, and to have schedules that provide for uniform daily work hours for each day of the week. Unfortunately it appears that CBP will appeal the arbitrator's ruling, further delaying resolution of this ongoing problem at all 327 ports of entry.

To Members of the committee, I say to you that the problems in El Paso are severe, but they are not isolated to El Paso. To address the challenges at El Paso and all of our ports of entry, NTEU recommends the following: No. 1, fill the vacancies and increase CBP officer and agriculture specialist staffing to those levels in CBP's own staffing model. No. 2, reestablish the specialization of prior inspection functions. No. 3, ensure the implementation of law enforcement officer coverage to CBP officers. No. 4, repeal a compromised DHS personnel system. No. 5, allow employee input into the shift assignment system. Most importantly, work with NTEU and with employees to create an environment where CBP employees can do the quality work that they are trying to do for our country every day, where these employees are respected and supported and have the staff they need to do their jobs. This would go a long way to addressing the retention issues that are very real in Customs and Border Protection.

Thank you, and I'm happy to answer any questions that you have.

[The statement of Ms. Kelley follows:]

PREPARED STATEMENT OF COLLEEN M. KELLEY

JANUARY 3, 2008

Chairman Thompson and Members of the House Homeland Security Committee, I would like to thank you for the opportunity to testify on the challenges of ensuring homeland security while facilitating legitimate trade and travel faced by the U.S. Customs and Border Protection officers at America's ports of entry. As President of the National Treasury Employees Union (NTEU), I have the honor of leading a union that represents over 20,000 Customs and Border Protection (CBP) officers, Agriculture Specialists, and trade compliance specialists who are stationed at 327 land, sea and air ports of entry across the United States, including the CBP officers here at the El Paso port of entry.

Each year, 16 million cars, 8 million pedestrians and 700,000 commercial trucks cross El Paso's three international bridge crossings that operate 24 hours a day. The Paso del Norte Port of Entry has 9 lanes currently open with a reduction to 5 lanes planned when scheduled construction resumes after the holidays and 14 temporary pedestrian-only lanes. The Bridge of the Americas Port of Entry has 14 lanes and 4 pedestrian-only lanes (of which only one or two are open regularly). The Ysleta (also known as the Zaragosa) Port of Entry has 12 lanes of which 2 are dedicated commuter lanes with 3 pedestrian-only lanes (of which only one is regularly open). There are also three Dedicated Commuter Lanes at Stanton Street that are open 6 a.m. to midnight during the week and 10 a.m. to midnight on the weekend. Because of CBP officer staffing shortages, not all vehicle and pedestrian lanes are open 24 hours a day.

In addition to Port of El Paso vehicle and pedestrian crossings, there are two commercial cargo truck specific crossings at the Bridge of the Americas Cargo Facility and the Ysleta Cargo Facility, as well as two single-track railroad bridge crossings and three international airport facilities. All these facilities are staffed by CBP officers, trade and agriculture specialists represented by NTEU.

I do not have to tell the people of El Paso that there are severe staffing shortages at our border crossings. They live with the long lines. For years, NTEU has been saying that CBP needs several thousand additional officers at its ports of entry; that insufficient staffing and scheduling abuses are contributing to morale problems, fatigue, and safety issues for CBP officers; that CBP is losing officers faster than it can hire replacements and that these officers who risk their lives every day deserve law enforcement officer status. Now, GAO is saying it too. I know the people of El Paso join me in demanding that CBP management acknowledges these problems and takes action.

NTEU's testimony today will discuss CBP staffing, training and morale problems at the 327 U.S. Ports of Entry, which were confirmed in a November 5, 2007 GAO report (GAO-80-219). We will use examples from the El Paso Port of Entry to illustrate these problems and offer recommendations to address them.

#### ONE FACE AT THE BORDER INITIATIVE

As part of the establishment of the Bureau of U.S. Customs and Border Protection in March 2003, the Department of Homeland Security (DHS) brought together employees from three departments of Government—Treasury, Justice and Agriculture to operate at the 327 ports of entry.

On September 2, 2003, CBP announced the One Face at the Border initiative. The initiative was designed to eliminate the pre-9/11 separation of immigration, customs, and agriculture functions at U.S. land, sea and air ports of entry. Inside CBP, three different inspector occupations—Customs Inspector, Immigration Inspector and Agriculture Inspector were combined into a single inspectional position—the CBP officer.

The priority mission of the CBP officer is to prevent terrorists and terrorist weapons from entering the United States, while simultaneously facilitating legitimate trade and travel—as well as upholding the laws and performing the traditional missions of the three legacy agencies, the U.S. Customs Service, the Immigration and Naturalization Service (INS) and the Animal, Plant and Health Inspection Service.

In practice, the major reorganization of the roles and responsibilities of the inspectional work force as a result of the One Face at the Border initiative has resulted in the dilution of the customs, immigration and agriculture inspection specializations and in weakening the quality of passenger and cargo inspections.

According to CBP, "there will be no extra cost to taxpayers. CBP plans to manage this initiative within existing resources. The ability to combine these three inspectional disciplines and to cross-train frontline officers will allow CBP to more easily handle projected workload increases and stay within present budgeted levels." (See CBP's "One Face at the Border" Questions and Answers dated 9/15/03.)

This has not been the case. The knowledge and skills required to perform the expanded inspectional tasks under the One Face at the Border initiative have also increased the workload of the CBP officer.

#### GAO REPORT

In 2006, Congress requested that the Government Accountability Office (GAO) evaluate the One Face at the Border initiative and its impact on legacy customs, immigration and agricultural inspection and workload. GAO conducted its audit from August 2006 through September 2007 and issued its public report, *Border Security: Despite Progress, Weaknesses in Traveler Inspections Exist at Our Nation's*

*Ports of Entry* (GAO-08-219), on November 5, 2007. The conclusions of this report echo what NTEU has been saying for years:

- CBP needs several thousand additional CBP officers and Agriculture Specialists at its ports of entry.
- Not having sufficient staff contributes to morale problems, fatigue, and safety issues for CBP officers.
- Staffing challenges force ports to choose between port operations and providing training.
- CBP's onboard staffing level is below budgeted levels, partly due to high attrition, with ports of entry losing officers faster than they can hire replacements.
- One of the major reasons for high attrition is that CBP officers are leaving to take positions in other Federal agencies to obtain law enforcement officer benefits not provided to them at CBP.

#### *Land Ports of Entry*

Most travelers enter the United States through the Nation's 166 land border ports of entry. About two-thirds of travelers are foreign nationals and about one-third are returning U.S. citizens. The vast majority arrive by vehicle. The purpose of the primary inspection process is to determine if the person is a U.S. citizen or alien, and if alien, whether the alien is entitled to enter the United States. In general, CBP officers are to question travelers about their nationality and purpose of their visit, whether they have anything to declare, and review any travel documents the traveler may be required to present.

At the land ports, primary inspections are expected to be conducted in less than 1 minute. Travelers routinely spend about 45 seconds at El Paso crossings during which CBP officers have to assess documents and oral claims of citizenship.

Currently, there are thousands of documents that travelers present to CBP officers when attempting to enter the United States, creating a tremendous potential for fraud. In addition, it takes several minutes for CBP officers to perform shift changes at the land ports of entry. The delay is primarily due to restarting the inspection booth computer with a new operator. This situation is exacerbated by random computer generated operations and enforcement referrals to secondary inspection areas. Rebooting the computer by the new CBP officer takes on average 3 to 5 minutes. Lines back up during shift changes and CBP officers are under pressure by managers to clear these lanes quickly.

#### *Air Ports of Entry*

At the airports, CBP officers are expected to clear international passengers within 45 minutes. Prior to 9/11, there was a law on the books requiring INS to process incoming international passengers within 45 minutes. The Enhanced Border Security and Visa Protection Act of 2002 repealed the 45-minute standard, however, it added a provision specifying that staffing levels estimated by CBP in work force models be based upon the goal of providing immigration services within 45 minutes. According to GAO, "the number of CBP staff available to perform primary inspections is also a primary factor that affects wait times at airports." (See GAO-05-663, page 12.)

In addition, the U.S. Travel and Tourism industry has called for a further reduction in passenger clearance time to 30 minutes. The industry's recently announced plan, called "A Blueprint to Discover America," includes a provision for "modernizing and securing U.S. ports of entry by hiring customs and border [protection] officers at the top 12 entry ports to process inbound visitors through customs within 30 minutes." This CANNOT be achieved at current staffing levels without jeopardizing security.

The emphasis on passenger processing and reducing wait times results in limited staff available at secondary to perform those inspections referred to them. NTEU has noted the diminution of secondary inspection in favor of passenger facilitation at primary inspection since the creation of the Department of Homeland Security.

#### IMPACT OF STAFFING SHORTAGES

According to GAO, "At seven of the eight major ports we visited, officers and managers told us that not having sufficient staff contributes to morale problems, fatigue, lack of backup support and safety issues when officers inspect travelers—increasing the potential that terrorists, inadmissible travelers and illicit goods could enter the country." (See GAO-08-219, page 7.)

"Due to staffing shortages, ports of entry rely on overtime to accomplish their inspection responsibilities. Double shifts can result in officer fatigue . . . officer fatigue caused by excessive overtime negatively affected inspections at ports of entry. On occasion, officers said they are called upon to work 16-hour shifts, spending long

stints in primary passenger processing lanes in order to keep lanes open, in part to minimize traveler wait times. Further evidence of fatigue came from officers who said that CBP officers call in sick due to exhaustion, in part to avoid mandatory overtime, which in turn exacerbates the staffing challenges faced by the ports." (See GAO-08-219, page 33.)

Staffing shortages have also diminished the quality of secondary inspections. In the past, there were two or more inspectors in secondary processing for every one inspector in primary processing. Now there is a one-to-one ratio. Before the merger, an inspector would check documents, query the traveler and send to secondary any vehicles or persons that needed additional vetting by an inspector. At secondary, a thorough document check or vehicle search would take place. Without adequate personnel at secondary, wait times increase and searches are not done to specifications.

#### ADDRESSING STAFFING SHORTAGES

The President's fiscal year 2008 budget proposal requests \$647.8 million to fund the hiring of 3,000 Border Patrol agents. But, for salaries and expenses for Border Security, Inspection and Trade Facilitation at the 327 ports of entry, the President's funding request is woefully inadequate. NTEU is grateful that Congress did include funding for an additional 450 CBP officers in the fiscal year 2007 DHS Appropriations bill, but it is clearly not enough.

In order to assess CBP officer staffing needs, Congress, in its fiscal year 2007 DHS appropriations conference report, directed CBP to submit by January 23, 2007 a resource allocation model for current and future year staffing requirements.

In July 2007, CBP provided GAO with the results of the staffing model. "The model's results showed that CBP would need up to several thousand additional CBP officers and agricultural specialists at its ports of entry." (See GAO-08-219, page 31.)

I am not privy to the actual number of CBP officers on staff today or the optimal staffing number as stated in CBP's own Staffing Allocation Model for the Port of El Paso because CBP has deemed this information to be "law enforcement sensitive." I do know that the difference in actual staffing and optimal staffing is likely in the hundreds.

In July 2007, NTEU called on Congress to hire an additional 4,000 CBP officers. NTEU based this number on results from the former U.S. Customs Service's last internal review of staffing for fiscal years 2000–2002 dated February 25, 2000, also known as the 2000–2002 RAM, that shows that the Customs Service needed over 14,776 Customs inspectors just to fulfill its basic mission—and that was before September 11. Since then the Department of Homeland Security was created and the U.S. Customs Service was merged with the Immigration and Naturalization Service and parts of the Animal, Plant and Health Inspection Service to create Customs and Border Protection and given an expanded mission of providing the first line of defense against terrorism, in addition to making sure trade laws are enforced and trade revenue collected.

According to GAO, with the merger of the three agencies' inspection forces, there are now approximately 18,000 CBP officers currently employed by CBP. NTEU believes that at least 22,000 CBP officers would be needed to have a robust and fully staffed force at our ports of entry. NTEU called for this increase in response to congressional inquiries in July. NTEU further estimates that of these 4,000 additional CBP officer new hires, 300 to 400 should be assigned to El Paso in order to provide critical passenger and cargo inspections. I urge the committee to review CBP's Staffing Allocation Model for the optimal staffing numbers for all 327 ports of entry and to authorize the funding necessary for CBP to achieve this level of staffing.

There exists a large number of CBP officer vacancies in El Paso and throughout the United States. And the ratio of supervisors to staff has increased dramatically at El Paso. In the 1990's, the goal was one supervisor to every 15 inspectors. Today at El Paso, there is one supervisor for every seven CBP officers. This ratio puts increasing scheduling pressure on frontline CBP officers.

NTEU believes that if the El Paso Port of Entry was staffed at the number stated in CBP's own Staffing Allocation Model, all pedestrian and vehicle lanes at all port crossings could be opened to capacity, while managing contingencies, as well as allowing CBP officers' time for mandated training.

#### *Agriculture Specialists*

NTEU was certified as the labor union representative of CBP Agriculture Specialists in May of this year as the result of an election to represent all CBP employees, other than Border Patrol agents, that had been consolidated into one bargaining unit by merging the port of entry inspection functions of Customs, INS and the Animal, Plant and Health Inspection Service as part of DHS' One Face at the Border initiative.

According to GAO (GAO-08-219, page 31), CBP's staffing model "showed that CBP would need up to several thousand additional CBP officers and agriculture specialists at its ports of entry." And GAO testimony issued on October 3, 2007 stated that, "as of mid-August 2007, CBP had 2,116 agriculture specialists on staff, compared with 3,154 specialists needed, according to staffing model." (See GAO-08-96T page 1.) NTEU recommends that CBP hire additional CBP Agriculture Specialists to comply with its own staffing model.

In addition, NTEU recommends that CBP Agriculture Specialists have access to voluntary overtime opportunities to the same extent as CBP officers. Agriculture Specialists did not have an overtime cap before joining CBP. Many now say they are not given adequate voluntary overtime opportunities.

NTEU also recommends that Congress, through oversight and statutory language, make clear that the agricultural inspection mission is a priority and require DHS to report to them on how it is following U.S. Department of Agriculture procedures on agriculture inspections. The report should include wait times for clearing agricultural products and what measures could be implemented to shorten those wait times.

#### TRAINING ISSUES

The Homeland Security Appropriations Committee added report language to the fiscal year 2007 DHS Appropriations bill that, with regard to CBP's One Face at the Border initiative, directs "CBP to ensure that all personnel assigned to primary and secondary inspection duties at ports of entry have received adequate training in all relevant inspection functions." It is my understanding that CBP has not reported to DHS Appropriators pursuant to this language, but NTEU's CBP members have told us that CBP officer cross-training and on-the-job training is woefully inadequate. In addition, staffing shortages force managers to choose between performing port operations and providing training. In these instances, it is training that is sacrificed.

GAO reports extensively in GAO-08-219, pages 35-41, on the shortcomings with CBP's on-the-job and cross training programs and I urge you to review this information.

I also urge you to review NTEU testimony on CBP training issues that I delivered before the House Homeland Security Subcommittee on Management, Integration and Oversight on June 19, 2007. In El Paso, according to NTEU members, there are no meaningful training programs—CBP officers are regularly told to complete 2-hour training courses in 30 minutes.

#### INFRASTRUCTURE ISSUES

NTEU does not dispute that the problems of El Paso's port facilities' infrastructure need to be addressed. There are currently three pedestrian/passenger vehicle processing facilities open 24 hours a day, 7 days a week. A major construction project to expand the number of vehicle lanes from 9 to 11 at the Paso del Norte crossing is currently under way. I understand the 9 lanes now open will be reduced to 5 after the holiday season when construction resumes. I also understand that the 14 temporary pedestrian lanes there are seriously congested, but this situation will improve after completion of the construction project. In addition, the Ysleta cargo facility is undergoing renovation. There are no lanes currently closed, but at some point commercial traffic lanes will be closed.

All port infrastructure solutions, including constructing an additional 24-hour port facility, will take years to achieve. What is necessary today is to staff all existing lanes to capacity. Currently, the Port of El Paso does not have adequate staffing to achieve this, which has resulted in abusive scheduling practices, as well as increased wait times. Scheduling and overtime abuses and their effect on recruitment and retention of CBP officers are discussed below.

#### RECRUITMENT AND RETENTION ISSUES

Reported staffing shortages are exacerbated by challenges in retaining staff, contributing to an increasing number of vacant positions Nation-wide. "CBP's on-board staffing level is below its budgeted level . . . the gap between the budgeted staffing level and the number of officers onboard is attributable in part to high attrition, with ports of entry losing officers faster than they can hire replacements. Through March 2007, CBP data shows that, on average, 52 CBP officers left the agency each 2-week pay period in fiscal 2007, up from 34 officers in fiscal year 2005 . . . Numerous reasons exist for officer attrition." (See GAO-08-2 19, page 34.)

#### *Work Shift Schedule Abuse*

A major factor that has hindered the recruitment and retention of CBP officers is work shift determinations. In the past, the agency had the ability to determine what the shift hours will be at a particular port of entry, the number of people on the shift, and the job qualifications of the personnel on that shift. The union representing the employees had the ability to negotiate with the agency, once the shift specifications were determined, as to which eligible employees would work which shift. This was determined by such criteria as seniority, expertise, volunteers, or a number of other factors.

CBP officers around the country have overwhelmingly supported this method for determining their work schedules for a number of reasons. One, it provides employees with a transparent and credible system for determining how they will be chosen for a shift. They may not like management's decision that they have to work the midnight shift but the process is credible and both sides can agree to its implementation. Two, it takes into consideration lifestyle issues of individual officers, such as single parents with day care needs, employees taking care of sick family members or officers who prefer to work night shifts. CBP's unilateral elimination of employee input into this type of routine workplace decisionmaking has had probably the most negative impact on employee morale.

On November 13, 2007, NTEU won an arbitration decision that found that CBP had not been abiding by existing Federal laws that require employees to receive 1-week notice of their work shifts; be scheduled so they receive 2 consecutive days off; and have schedules that provide for uniform daily work hours for each day of the week.

In El Paso, CBP officers have been scheduled for what are called "free doubles"—back-to-back shifts—16 hours—that straddle two pay periods with the intent to avoid overtime pay for the second 8-hour shift. El Paso port managers also frequently schedule CBP officers to varying shifts within the same pay period, for example, 8 a.m. to 4 p.m. one day, then 4 p.m. to midnight the next day and then midnight to 8 a.m. the following day. These schedules have been altered daily, with no notice, making it impossible for CBP officers to have any certainty in planning personal or family activities during off-duty hours.

In order to avoid a pay differential that is required for commuting time when an officer is called back to work (call back and commute), port managers order officers on the premises to overtime duty. CBP officers have been held over in a booth rather than bringing in a fresh officer to avoid paying a commute. CBP managers frequently staff primary lanes with supervisors and have required canine officers to drop leash for assignment in primary booths. Scheduling abuses along with short-staffing, have resulted in overworked officers, safety and overtime violations, and concerns about favoritism in assignment of work and overtime.

In addition, to scheduling abuses, El Paso CBP managers have instituted leave policies that are not sanctioned by law or contract. Managers request that CBP officers provide, at the officer's expense, medical documentation for 1 day of sick leave and have required minimum leave balances where none exist in either the CBP Leave Handbook or the contract.

These abuses have resulted in CBP officers leaving the service in droves. NTEU hopes that this arbitration win and returning some normalcy back to CBP officer schedules will reduce this trend. Unfortunately, it is likely that CBP will appeal the arbitrator's ruling, further delaying resolution of this on-going problem at all 327 ports of entry.

#### *Law Enforcement Officer Status*

CBP officers clearly deserve Law Enforcement Officer (LEO) status and Congress in the recently passed fiscal year 2008 omnibus spending bill recognized this by providing a prospective LEO retirement benefit to CBP officers beginning in July 2008. NTEU is grateful to the Homeland Security Committee for its leadership in achieving the enactment of this provision for CBP officers.

For years, the most significant impediment to recruitment and retention of CBP officers has been the lack of LEO status. LEO recognition is of vital importance to CBP officers. CBP officers perform work every day that is as demanding and dangerous as any member of the Federal law enforcement community, yet they have long been denied LEO status.

The GAO report confirms the negative impact that lack of LEO coverage is having. "CBP officers are leaving the agency to take positions at other DHS components and other Federal agencies to obtain law enforcement officer benefits not authorized to them at CBP. In fiscal year 2006, about 24 percent of the officers leaving CBP, or about 339, left for a position in another DHS component." (See GAO-08-219, page 34.)

All too often, talented young officers treated the CBP officer position as a stepping-stone to other law enforcement agencies with more generous retirement benefits. With the enactment of Section 535 of the fiscal year 2008 omnibus spending bill, this will no longer be the case. Legislation has also been introduced in the House and Senate, H.R. 1073 and S. 1354 respectively, the Law Enforcement Officer Retirement Equity Act, that would provide retroactive LEO benefits to CBP officers and NTEU continues to support this effort.

*DHS Human Resources System*

In July 2005, the U.S. District Court for the District of Columbia ruled that portions of the proposed DHS personnel regulations, formerly known as MaxHR, but now called the Human Capital Operations Plan (HCOP), infringed on employees' collective bargaining rights, failed to provide an independent third-party review of labor-management disputes and lacked a fair process to resolve appeals of adverse management actions. The Appellate Court rejected DHS' appeal of this District Court decision and DHS declined to appeal the ruling to the Supreme Court.

When Congress passed the Homeland Security Act in 2002, it granted the new department very broad discretion to create new personnel rules. It basically said that DHS could come up with new systems as long as employees were treated fairly and continued to be able to organize and bargain collectively. The regulations DHS came up with were subsequently found by the Courts to not even comply with these two very minimal and basic requirements.

It has become clear to the Congress that DHS has learned little from these Court losses and repeated survey results and will continue to overreach in its attempts to implement the personnel provisions included in the Homeland Security Act of 2002. In May, the full House approved H.R. 1648, the fiscal year 2008 DHS Authorization bill that includes a provision that repeals the DHS Human Resources Management System. In addition, both of the 2008 DHS Appropriations bills significantly restrict funding for MaxHR, now called HCOP.

DHS employees deserve more resources, training and technology to perform their jobs better and more efficiently. DHS employees also deserve personnel policies that are fair. The DHS personnel system has failed utterly and its authorization should be repealed and all funding should be eliminated by Congress.

*Job Satisfaction, Leadership and Workplace Performance Survey*

In February of this year, DHS received the lowest scores of any Federal agency on a survey for job satisfaction, leadership and workplace performance. Of the 36 agencies surveyed, DHS ranked 36th on job satisfaction, 35th on leadership and knowledge management, 36th on results-oriented performance culture, and 33rd on talent management. As I have stated previously widespread dissatisfaction with DHS management and leadership creates a morale problem that affects recruitment and retention and the ability of the agency to accomplish its mission.

**NTEU RECOMMENDATIONS**

CBP employees represented by NTEU are capable and committed to the varied missions of DHS from border control to the facilitation of trade into and out of the United States. They are proud of their part in keeping our country free from terrorism, our neighborhoods safe from drugs and our economy safe from illegal trade. The American public expects its borders and ports to be properly defended. Congress must show the public that it is serious about protecting the homeland by:

- Filling vacancies and increasing CBP officer and CBP Agriculture Specialist staffing to those levels in CBP's own staffing model;
- reestablishing specialization of prior inspectional functions;
- ensuring the successful extension of LEO retirement coverage to CBP officers;
- repealing the compromised DHS personnel system; and
- allowing employee input in the shift assignment system.

Again, I would like to thank the committee for the opportunity to be here today on behalf of the 150,000 employees represented by NTEU and especially the members of NTEU Chapter 143, CBP El Paso.

Mr. CUELLAR. Thank you very much for your testimony. I now recognize Ms. Walker to summarize her statement for 5 minutes.

**STATEMENT OF KATHLEEN CAMPBELL WALKER, PRESIDENT,  
AMERICAN IMMIGRATION LAWYERS ASSOCIATION**

Ms. WALKER. Thank you very much, Chairman Cuellar, and distinguished Members of the committee and Congressman Reyes

from my local home district. Thank you for the opportunity to be here.

In listening to the testimony provided so far today, with the 21 years that I've been working on border security and immigration issues, I'm concerned about having placations to the idea of security, which is a noble one, without connecting the dots to effectuate its achievement. That basically, to me, is something that we need to take home and consider very thoughtfully before we facilitate more technology, more ports, et cetera.

We have a fundamental problem with the inability to get staffing on the ground. We have a fundamental problem that is advocated with the Data Management Improvement Act reports to Congress, both the first and second one, talking about lack of infrastructure. What do we do when faced with years of lack of attention to those infrastructure and staffing needs when we have an immediate need to go ahead and proceed with having a more effective port administration? We're not talking, as you mentioned earlier, Chairman Cuellar, the individuals in green. We're talking about the individuals in blue at our ports of entry, which seem to be lost in the equation.

What I'm extremely concerned about is this situation of overtime, and I thank God for the LEO status that's recently been approved by the consolidated omnibus provisions because I hope that that helps in recruitment, but the GS levels have to be improved, as well, to be able to recruit these individuals. But when you are exhausted and when you're trying to achieve to the satisfaction of two managers, both security as well as facilitation, without the tools to get there, you have basically an equation for failure, and that's not where we want to place our people at the ports of entry nor our communities that must exist there. The personnel factor of exhaustion also leads to people having a hard time keeping enough patience that's necessary to be able just to deal with the public, and that's an extremely difficult job, in addition to knowing the technical level of law that you're required to as a CBP inspector.

I think that the One Face at the Border program, although admirable in trying to cross-train, it's a good idea to express importance of knowing the other guy's job, you have lost security service in your ports of entry because you have people who do not know the level of complexity of immigration law, customs law and agricultural law to the extent they must. I think that any loss of training is a loss of security, and that you need to focus a lot of effort and energy on achieving that goal. There is nothing that is going to work without a sufficient amount of accountability review by Congress to get that accomplished.

You know, we talked briefly earlier, among your earlier panelists, regarding WHTI, Western Hemisphere Travel Initiative, and the pushback recently by the Consolidated Omnibus Bill until June 2009, and people were kind of talking about the end of oral declarations, but let's go ahead and be clear about what the law currently provides. The law currently provides that as a U.S. citizen a CBP inspector can indeed ask you to provide documentation regarding my U.S. citizenship. The standard of activity, though, in the past has been, no, I don't typically see a question regarding "show me

the money," as one might use from a trite movie, regarding U.S. citizenship status.

So, fine, let's go ahead and move forward, but what is the training and staffing being provided in order to now question individuals who are U.S. citizens to prove that status? I'm going to ask for a driver's license, which does nothing to prove your citizenship, and arguably doesn't do a darn good job about being able to establish my identity based on the fluctuations State by State in being able to get a driver's license. No. 2, I'm going to look at a birth certificate, where we have no standardization of birth certificate records.

Oh, fine. So now I'm going to spend time as a port-of-entry inspector looking at a driver's license and a birth certificate to establish whether or not someone is a U.S. citizen. I must submit that that is a fallacy, if you believe that that is going to increase our security.

The whole idea of an enhanced driver's license, while admirable and may somewhat tie into REAL ID implementation, which has been, by 24 States, challenged because of a lack of funding for REAL ID implementation, to the enhanced driver's license where now I'm going to have the State trying to figure out whether or not someone is a U.S. citizen, I think, again, is wrongheaded. I would rather see money being spent on the State Department to roll out these PASS cards. The cost is \$45 for an adult, \$35 for a child. The State has a hard enough time figuring out whether or not someone is a U.S. citizen. If you want to have a headache inducement time-frame, just try to figure out our citizenship laws. It's not simple.

So I would just hope that from the passport push that we would try to go ahead and focus our resources that are so limited on a State basis on the PASS card accomplishment versus creating yet another thing, timed RFID vicinity—for vicinity use, which is again a privacy issue problem.

On top of that—and I'll end because I know that my time is up—SENTRI and NEXUS, look at the publications on the northern border right now regarding a drop in NEXUS and on the southern border regarding a drop in SENTRI enrollment because of the lack of clarity regarding the guidelines on what are the baseline standards to get into SENTRI and NEXUS.

The typical thing that you look at in immigration is: How long ago did the violation occur? What's the level of the violation? The zero tolerance policy in SENTRI and NEXUS is crippling the program. In addition to that, the program is being crippled because with all that additional data, we're still dealing with primary inspections as we see in non-SENTRI and NEXUS lanes, so I think we need to move beyond that.

There's suggestions in my testimony regarding various programs we can attempt to review, and I think will be really positive. I know the El Paso community will want to work on those if they're asked to, and I look forward to seeing if we can have other public/private partnerships here that have accomplished in the past a number of things on the security front, being both FAST and SENTRI based, as examples.

Thank you for the time, and I apologize for going a little over.  
 [The statement of Ms. Walker follows:]

## PREPARED STATEMENT OF KATHLEEN CAMPBELL WALKER

JANUARY 3, 2007

Mr. Chairman and distinguished Members of the House Committee on Homeland Security, I am Kathleen Campbell Walker, National President of the American Immigration Lawyers Association (AILA), headquartered in Washington, DC, and head of the Immigration Department of the Kemp Smith LLP law firm, with offices in El Paso and Austin, Texas. I am honored to have this opportunity to appear before you today.

AILA is the immigration bar association of over 11,000 lawyers, who practice immigration law. Founded in 1946, the association is a nonpartisan, nonprofit organization and is affiliated with the American Bar Association (ABA). The association has 35 chapters and numerous national committees engaged in liaison with Federal agencies as well as advocacy, professional conferences and publications, and media outreach on immigration topics. AILA members have assisted in contributing ideas to increased port of entry inspection efficiencies, database integration, security enhancement and accountability, and technology oversight, and continue to work through our national liaison activities with Federal agencies engaged in the administration and enforcement of our immigration laws to identify ways to improve adjudicative processes and procedures.

Being from El Paso and practicing immigration law here for over 22 years, my practice has focused on consular processing, admissions, database integration, private/public partnerships for improved inspections at our ports, biometrics in immigration processing, business-based and cross-border immigration issues, naturalization, citizenship, and family-based cases. I previously served as the president for 4 years of the El Paso Foreign Trade Association, a member of the Texas Comptroller's Border Advisory Council, a member of the board of the Border Trade Alliance, and a member of the executive committee of the Texas Border Infrastructure Coalition for the city of El Paso. During my tenure as president of the El Paso Foreign Trade Association, the association served as a leader in creating the first Dedicated Commuter Lane in the State of Texas, which was in El Paso. I have previously testified in hearings before committees and subcommittees of the U.S. Senate and House as well as before certain committees of the Texas State Senate and House on the topics of immigration and border security.

## I. BACKGROUND

*A. Summary*

The El Paso/Cd. Juarez area has served as an example of the use of positive public and private partnerships to balance the flow of trade and people between countries with the increased need for security. El Paso represents the historic border town between the United States and Mexico. The virtual border of today includes as our first line of defense, the Department of State's (DOS) U.S. consular posts abroad as well as Pre-Clearance Operations (PCO) and the Immigration Security Initiatives (ISI) of Customs and Border Protection (CBP) at foreign airports. In addition, we use advance passenger manifests from arriving airplanes provided to CBP, the US-VISIT registration process, the integration capabilities of our enforcement databases, and the operations of our intelligence networks.

What are the true parameters of "securing" this virtual border? The border demarcated by the Rio Grande between the United States and Mexico is a last line, not a first line, of effective control of those coming to the United States. This border must be porous enough to facilitate our economic growth and yet impervious enough to withstand the efforts of those wishing to do our Nation harm. My testimony will review concrete efforts by this border community to achieve such results via numerous security-related technologies and infrastructure initiatives. It is difficult for a community steeped in secure trade initiatives, however, to support an "enforcement only" or "enforcement first" response to our current immigration problems generally, and to the conundrum of illegal immigration specifically given years of failure to fund and be accountable to the American public for border security issues. Where were the funds and the accountability for trade and inspections' infrastructure as well as consular visa processing support in the last 50 years that would meet the joint demands of security and trade?

A day does not pass without innumerable talking heads lambasting our lack of control of our borders. We here on the border know that talk is cheap and action, including funding and oversight, much harder. For example, the Immigration and Naturalization Service ("INS") Office of Administration reported in the 2nd Data Management Improvement Act ("DMIA") report to Congress in 2003, the following shortages in space for the Federal inspection area at land border ports of entry:

- 64 ports have less than 25 percent of required space.
- 40 ports have between 25 and 50 percent of required space.
- 13 ports have between 50 and 75 percent of the space required.
- Some existing ports lack any land for expansion.<sup>1</sup>

The funding backlogs for facility requirements of land ports of entry have been extensive for years. In fiscal year 2003, for example, the funding backlog was over \$500 million.<sup>2</sup> Where is the follow-up report evaluating this lack of infrastructure and the plan of action to deal with this issue? If "border security" means sufficient infrastructure at our land border ports, when is this objective actually achievable?

#### *B. Accountability and Technology Solutions for Border Security*

In a 2005 Immigration Policy Center (IPC) study on the impact of border fencing, Professor Jason Ackleson of New Mexico State University noted, "Viewing border security as a solely national security matter tends to neglect the larger economic and social forces that underpin the flow of Mexicans and others into the United States to fill gaps in the U.S. labor force."<sup>3</sup>

As to the decisions that must be made to use effective technology as a complement to the human factor, the statement of Nancy Kingsbury, the Managing Director of Applied Research and Methods for the then Government Accounting Office is instructive. Ms. Kingsbury states that the following three key considerations must be addressed before a decision is made to design, develop, and implement biometrics into a border control system:

1. Decisions must be made on how the technology will be used.
2. A detailed cost-benefit analysis must be conducted to determine that the benefits gained from a system outweigh the costs.
3. A trade-off analysis must be conducted between the increased security, which the use of biometrics would provide, and the effect on areas such as privacy and the economy.<sup>4</sup>

Stephen E. Flynn, Ph.D., former Commander, U.S. Coast Guard (RET.) and a Jeanne J. Kirkpatrick Senior Fellow in National Security Studies has stated that, "Hardened borders also transform the cost-reward structure so amateur crooks are replaced by sophisticated criminal enterprises and corruption issues become more pronounced. In short, the experience of the southwest border suggests that aggressive border security measures end up contributing to problems that inspired them in the first place."<sup>5</sup> Commander Flynn noted the following:

"To adopt the 'smart border' agenda throughout North America will require that Washington countenance an alternative approach to dealing with the issues of illicit drugs and immigration. It will require the Federal agencies for whom border enforcement has been a growth business to acknowledge the unintended consequences of their collective effort has been to actually make the border regions more difficult to police and secure.<sup>6</sup> Well designed border crossings that are adequately staffed with inspectors who are well trained in behavior pattern recognition can be more effective than reliance on high technology when dealing with this foot traffic . . . biometric device is useless in detecting behaviors such as excessive anxiety that should arouse suspicion."<sup>7</sup>

#### *C. The Human Element*

It is critical to recognize the importance of the human element in concert with technology advancements. We must never forget the actions of Diane Dean, the customs inspector, who with her colleagues intercepted and arrested an al Qaeda terrorist named Ahmad Ressam at the U.S.-Canada border in late 1999. She questioned Ressam and found his answers suspicious. In addition, Jose Melendez-Perez was an INS inspector who denied entry to a man named Mohamed Al Quatrain at the Orlando airport in August 2001. Mr. Melendez just felt that something in his

<sup>1</sup> DMIA Task Force: Second Annual Report to Congress, at 33 (December 2003) (herein "2nd DMIA Report").

<sup>2</sup> Id.

<sup>3</sup> Ackleson, Jason, Ph.D., "Fencing in Failure: Effective Border Control is Not Achieved by Building More Fences," Immigration Policy Center Brief, American Immigration Law Foundation, p. 6 April 2005.

<sup>4</sup> Kingsbury, Nancy, Testimony before the Subcommittee on Terrorism, Technology, and Homeland Security and Subcommittee on Border Security, Immigration, and Citizenship, Committee on the Judiciary, U.S. Senate, March 12, 2003 GAO '03-546T, at 13.

<sup>5</sup> Flynn, Stephen E. Ph.D., Testimony before a hearing of the Committee on Foreign Relations, U.S. Senate on "U.S.-Mexico: Immigration Policy & the Bilateral Relationship," March 23, 2004, at p. 3.

<sup>6</sup> Id. at p. 10.

<sup>7</sup> Id. at p. 6.

story did not add up. Later, Al Quatani was captured fighting with the Taliban. The importance of such intuition and inspection training cannot be forgotten or undervalued at our collective security peril.

This critical human element within CBP is suffering. The November 2007 GAO report noted that in 2006, nonsupervisory CBP staff scored their work environment as lower than elsewhere in the Federal Government on 61 of their survey's 73 questions.<sup>8</sup> The report further notes that as to staffing, CBP staff gave low marks to CBP for adequacy of resources to get the job done and for work being done to recruit those with necessary talents and skills. In addition, as to training, less than half of the CBP staff were satisfied with the quality of training received.<sup>9</sup> At some ports, managers had to cancel training sessions to deal with staffing shortages. At one port, management estimated that they would need \$4 million in overtime to provide its officers with four basic cross-training courses, including one in processing immigration cases.<sup>10</sup>

It is imperative that effective congressional oversight of staffing and training at ports of entry evaluate the number of personnel actually on-site and available for inspection work. Often, a port may be listed as fully staffed, but the information is only relevant as to allocation versus actual on-site inspectors. In addition, CBP has reduced public information as to these staffing numbers. Several years ago, the Western Region of the southern land border for CBP included the Phoenix and San Diego Districts, while the Central Region included the El Paso, Harlingen, and San Antonio Districts. At that time, the Western Region had 13 ports of entry and processed 132,774,790 applications for admission, while the Central Region with 28 ports processed 190,808,224 applications for admission. Based on 788 authorized inspector positions for the Western Region versus 697 authorized inspector positions for the Central Region, the Central Region inspectors carried a load of 275,592 inspections per position versus 166,139 inspections per Western Region inspector. These figures must be provided by CBP to congressional oversight committees to determine realistic staffing needs and demands.

The president of the CBP union, the National Treasury Employees Union (NTEU), Colleen M. Kelley, sent a Letter to the Editor of the El Paso Times, which was published on October 21, 2007, stating that there are about 18,000 CBP officers staffing our Nation's 326 ports of entry, with Congress hiring 200 more in fiscal year 2008. She noted that while the addition of 200 might seem significant, that at least 22,000 CBP officers were needed—a deficit of 3,800 CBP inspectors. How can we expect CBP to have a chance to accomplish its inspections missions without sufficient staffing—and what really is the true number of on the ground inspectors needed to avoid massive overtime demands? This valid question should be readily answerable by any congressional oversight committee. Technology cannot achieve objectives without sufficient staffing resources and appropriate infrastructure. Thus, artificial deadlines to make constituents think security objectives are being achieved are an optical artifice at best.

## II. TECHNOLOGY CHALLENGES AND HISTORY

It is imperative that we have a “no tolerance” policy for technology, which does not enhance security as advertised or for technological failures tied to inadequate funding and oversight by Congress and/or the agency charged with implementing such technology. While technology can provide useful enhancements to security capabilities, even the most promising technological plans can be thwarted or sabotaged based on a variety of factors such as:

- Inadequate pilot testing on sight to determine the true capacity of the technology.
- Failures to perform cost-benefit analyses before implementation as well as appropriate follow-up on performance of implemented technologies.
- Inadequate integration of field-testing replies on technology in strategizing implementation methodologies.
- Improper cannibalization of technologies during the request for bid process resulting in potential performance reductions.
- Failure to adhere to implementation schedules due inadequate funding and staffing.
- Inability to provide maintenance due to funding or lack of availability.

<sup>8</sup>U.S. Government Accountability Office (GAO), *Border Security: Despite Progress, Weaknesses in Traveler Inspections Exist at Our Nation's Ports of Entry*, GAO-08-219, November 2007 at p. 54.

<sup>9</sup>Id.

<sup>10</sup>Id. at p. 36.

- Failure to analyze and address crossover agency issues in the implementation of technologies.
- Failure to provide adequate initial and on-going training to utilize technologies.
- Failure to admit mistakes and learn from them in technology implementation.
- Mandated percentages of technology use for inspections without consideration of effectiveness.
- Failure to preserve biometric data for future use/review.
- Failure to fully integrate watch list databases to improve effectiveness.

Any implementation of technology is always an experiment. The land border has had its share. The following section provides a few examples:

*License Plate Readers.*—Several years ago, license plate readers were installed in our passenger vehicle lanes in El Paso to read plates of northbound cars to the United States to reduce primary inspection times by ending the need to manually input plate numbers. Unfortunately, the technology had problems with the different Mexican plate permutations and the ability to read such plates would at times be at a less than 50 percent level. The capacity has improved over time, but usage of the system can still be problematic.

*Document Scanners.*—Section 303 of the Enhanced Border Security Bill of 2002 (Pub. L. No. 107-713), required that as of October 26, 2004, all U.S. visas, other travel and entry documents issued to foreign nationals, and passports with biometric identifiers issued to Visa Waiver Program country applicants for admission must be used to verify identity at all ports of entry via a biometric comparison and authentication. This deadline was extended for 1 year by Pub. L. No. 108-299. Note that this requirement is separate from the recordation of admission under US-VISIT procedures. Thus, along the U.S.-Mexican border, even exempted Mexican laser visa holders under US-VISIT procedures (e.g. crossers within 25-mile area of border/75 miles in Arizona for 30 days or less) require scanning for admission as well as holders of currently valid I-94s. This requirement applies to pedestrians, persons in passenger vehicles, as well as commercial vehicles. At El Paso ports alone, those inspected in 1 day can exceed 100,000 people.

In April and May 2004, scanners were installed at El Paso ports in preparation for the October 2004 deadline. Mexican laser visas and legal permanent resident cards were scanned using this Biometric Verification System (“BVS”), which involved the scan of a print to confirm identity as well as a scan of the identity document. The system did not record the entry date. In addition, the system did not scan the person against watch lists upon intake of the biometric data without further manipulation by the inspector of the database. The card scanned would often get stuck in the BVS readers. In addition, the no-read rate for the scanners exceeded 40 percent at certain ports of entry. Such failures were tied to “wallet-crud” on the cards, damaged cards, and sweaty or dry fingers.

*US-VISIT, RFID, and Inspection.*—Due to the infrastructure, staffing, inspection volume, and technology limitations of the southern border, as of fiscal year 2004, only 1.4 percent of land port of entry admissions were processed through US-VISIT.<sup>11</sup> In fiscal year 2004, land border inspections totaled 335.3 million in comparison to 75.1 million for airports of entry and 14.7 million for sea ports of entry.<sup>12</sup> Any implementation of an increased percentage of applicants for admission being subjected to further biometric or document review at land ports of entry must be reviewed in context of these volume realities at our land border ports of entry.

In addition to the scanner failure referenced above as to the laser visa, which will be in circulation for 10 years in 2008, CBP primary inspection officers are unable to utilize the chip technology in the e-passport to verify document authenticity because e-passport readers are not available at 83 airports of entry and are not designated for U.S. citizen inspections at 33 other airports of entry.<sup>13</sup> In addition, primary inspectors are not able to utilize the available fingerprint records of the laser visa, which are stored on optical media of the laser visa card.<sup>14</sup> Due primarily to the large volume of admission applications at land border ports of entry, primary officers only machine read travel documents or manually enter biographic data when deemed appropriate tied to traffic flow and wait times. Thus, a primary inspector may only scan 40 percent of machine-readable documents on the southern

<sup>11</sup> U.S. Government Accountability Office (GAO), *Homeland Security: US-VISIT Program Faces Operational, Technological, and Management Challenges*, Statement of Richard M. Stana, Director of Homeland Security and Justice Issues, GAO-07-632T, March 20, 2007 at p. 7.

<sup>12</sup> Id.

<sup>13</sup> GAO, *Border Security: Security of New Passports and Visas Enhanced, But More Needs To Be Done To Prevent Their Fraudulent Use*, GAO-07-1006, July 2007 at p. 32.

<sup>14</sup> Id. at p. 34.

land border.<sup>15</sup> Most land border crossers are U.S. citizens and legal permanent residents, and are exempt by statute.<sup>16</sup> Canadians and Mexican citizens comprised about 41 percent of the land border crossers, of whom less than 2 percent were required to enroll in US-VISIT.<sup>17</sup> Thus, it is important to apply the lessons from US-VISIT to the tremendous task ahead created by the implementation of the Western Hemisphere Travel Initiative ("WHTI") for land border crossings.

In attempts to implement US-VISIT in the land border environment, CBP tested radio frequency identification (RFID) technology. In February 2007, DHS officials decided to cease the use of RFID technology to try to track exits from the United States. In some instances, RFID read rates were at only 14 percent versus the target of at least 70 percent. In addition, CBP experienced problems with cross reads, in which multiple RFID readers at a border crossing picked up an I-94 with an RFID tag. In the tests conducted by CBP, US-VISIT embedded the tag in a modified I-94 (arrival/departure card). US-VISIT officials acknowledged that no technology now exists to reliably record a traveler's exit from the country.<sup>18</sup> The same officials noted that a biometrically based solution that can definitively match a visitor's entry and exit will be available in 5 to 10 years.

As background, RFID is a form of wireless technology. A computer chip is attached to an antennae (the tag), which communicates wirelessly with a reader or interrogator via radio waves. Proximity RFID cards require a card to be presented within 4 inches of a reader and conform to the ISO 14443 standard. Vicinity RFID cards may be read from a range of 20 feet from the reader, but long-range RFID cards are subject to snooping and forgery.

**WHTI.**—The Intelligence Reform and Terrorism Prevention Act of 2004 (Pub. L. No. 108-458), as amended (IRTPA) provides that upon full implementation, U.S. citizens and certain classes of nonimmigrants may enter the United States only with passports or such alternative documents as the Secretary of Homeland Security designates to establish identity and work eligibility. As of January 31, 2008, the Department of Homeland Security (DHS) has announced that all U.S. and Canadian citizens 19 years of age and older who enter the United States at land and sea ports of entry from within the Western Hemisphere will need to present a Government-issued photo ID such as a driver's license as proof of identity along with proof of citizenship, such as a birth certificate, naturalization certificate, or a passport. Children age 18 and under will be able to enter the United States by presenting proof of citizenship alone. Other acceptable documentation for WHTI admission purposes includes a U.S. military ID card, a NEXUS card (at NEXUS kiosks only), a DOS Passport Card (when available), a SENTRI card (at SENTRI lanes), a FAST card (at FAST lanes), a laser visa, and a Merchant Mariner Document (MMD) (when traveling on official maritime business).

In the later part of 2007, local CBP officials at the El Paso ports of entry started to check Government-issued photo identification cards to attempt to verify the identity of those claiming to be U.S. citizens. This minor test drive of WHTI at a 65 percent review rate caused substantial delays at the ports of entry. To believe that poorly staffed and undertrained CBP officers at our ports will be able to evaluate a Government-issued identity card and birth certificate or naturalization certificate for U.S. citizens at land borders on January 31, 2008 is foolhardy and premature. This conclusion is especially true due to the difficulties in starting the application process for the DOS PASSCARD and problems with RFID cards and document or e-technology scanners.

According to the testimony of Frank E. Moss, Deputy Assistant Secretary for Passport Services for DOS, presented on April 27, 2006 before the U.S. Senate Committee on Foreign Relations, Subcommittee on Western Hemisphere, Peace Corps and Narcotics Affairs, DOS believes that about 6 million U.S. citizens who do not have a passport will require formal documents under WHTI for travel by air or sea. As to land border travel to Canada or Mexico, Mr. Moss estimated that 27 million Americans may need formal documents to travel during the next 5 years. Mr. Moss stated that DOS predicted that passport applications would reach about 16 million in fiscal year 2007 and perhaps a sustained demand of 17 million or more in fiscal year 2006 and beyond. In fiscal year 2006, DOS processed approximately 13 million passport applications. Currently, a basic initial passport application costs \$97.00.

<sup>15</sup>Id.

<sup>16</sup>In fiscal year 2004, U.S. Citizens and lawful permanent residents comprised about 57 percent of land border crossers. *Id.* at p. 15.

<sup>17</sup>Id.

<sup>18</sup>U.S. GAO Report, *Border Security: US-VISIT Program Faces Strategic, Operational, and Technological Challenges at Land Ports of Entry*, GAO-07-248, December 2006 at p. 59.

*PASSCARD/Citizenship Card.*—In light of the WHTI requirements, DOS announced in October 2006 that it would propose a limited use passport card for land and sea travel between the United States, Mexico, Canada, the Caribbean, and Bermuda. The proposed card would cost \$10 for children and \$20 for adults plus a \$25 execution fee. DOS indicated that the proposed card would use long-range, vicinity RFID technology. The card itself would not contain any personal information, but would contain a unique identifier to link the card to a database. There is some historical support for a citizenship card used for Western Hemisphere Travel. The Immigration and Naturalization Service from 1960 to 1983 issued a citizen identification card to naturalized citizens living near the Canadian and Mexican borders who needed them for frequent crossings to the United States. The cards were called an I-179 or I-197. The only biometric feature of these cards was a photograph and the cards were not tamper-resistant. To resurrect such cards would require a review of the same biometric issues faced by DOS with the PASSCARD. Unfortunately, DOS may not even start accepting applications for a PASSCARD until February 2008 or later depending upon regulatory clearances.

It is currently expected that in the summer of 2008, WHTI's requirements will be fully implemented, and birth certificates will no longer, along with a Government-issued photo identification, serve as satisfactory evidence of citizenship. DHS must be cautious in pushing this deadline ahead of training, staffing, document issuance, and infrastructure capabilities. Connecting the dots on realistic capabilities of CBP inspectors and DOS adjudicators will be critical to avoid a catastrophic interruption in cross-border travel.

*REAL ID and the Enhanced Driver's License.*—Congress passed the REAL ID Act as part of the Emergency Supplement Appropriations Act for Defense, the Global War on Terror, and Tsunami Relief of 2005 (Pub. L. No. 109-13), which the President signed into law on May 11, 2005. The REAL ID Act provides that beginning 3 years after enactment, driver's licenses cannot be accepted by Federal agencies for any official purpose unless the licensees meet the requirements of the Act. States will have until May 2008 to make their licenses and issuance processes conform with REAL ID. States can choose whether to implement REAL ID requirements. In 2006, the National Conference of State Legislators (NCSL) and the American Association of Motor Vehicle Administrators (AAMVA) in conjunction with the National Governors Association (NGA) conducted a Nation-wide survey of State motor vehicle agencies (DMVs). Based on the results of the survey, NGA, NCSL, and AAMVA concluded that REAL ID would cost more than \$11 billion over 5 years, have a major impact on services to the public, and impose unrealistic burdens on States to comply with the Act by the May 2008 deadline. Since that time, the State government of Maine passed a resolution in January 2007 to reject implementation of the REAL ID Act. Arkansas, Idaho, Montana, and Washington have also passed similar legislation to reject REAL ID. At least 24 other States are also considering opting out of REAL ID, placing conditions on their participation in the law, or urging Congress to repeal it. A table that lists and summarizes these proposals is set forth at [www.nilc.org](http://www.nilc.org) in a chart entitled, "2007 State REAL ID Legislation."

Some of the driving forces behind the passage of REAL ID were to improve the process of driver's license issuance to reduce fraud, improve consistency in issuance processes among the States, and to require proof of lawful immigration status. As to immigration status, under REAL ID, a driver's license applicant must demonstrate proof that he or she: (1) Is a U.S. citizen; (2) is lawfully admitted for permanent or temporary residence; (3) is a conditional permanent resident; (4) has a pending or approved application for asylum; (5) is a refugee; (6) is a nonimmigrant with a valid, unexpired visa; (7) has a pending or approved application for temporary protected status; (8) has approved deferred action status; OR (9) has a pending application for permanent residence or conditional permanent residence.

Some States opposing REAL ID have chosen to proceed with a Memorandum of Understanding with DHS to create an enhanced driver's license for compliance with WHTI requirements. Washington State is an example of this approach. Vermont, Arizona, and New York are apparently also heading down this path. In Texas, S.B. 2027 introduced by State Senator Eliot Shapleigh of El Paso amended Section 521.032 of the Texas Transportation Code as of September 1, 2007 to allow those U.S. citizens residing in the State of Texas to apply for an enhanced driver's license, which requires the Texas Department of Public Safety to implement a one-to-many biometric system for such licenses and to secure any RFID chip used in such licenses from unauthorized access. While laudable in effort, the State enhanced driver's license (EDL) option to deal with WHTI demands is a redundant and unnecessary precedent. It steps squarely onto the issue of Federal preemption under the U.S. Constitution.

WHTI deals with the issue of documenting citizenship and applying Federal immigration/citizenship laws. The Federal courts have repeatedly commented on the complex nature of immigration law. "Immigration laws bear a 'striking resemblance [to] King Minos's labyrinth in ancient Crete. The Tax Laws and the Immigration and Nationality Acts are examples we have cited of Congress's ingenuity in passing statutes certain to accelerate the aging process of judges." *Lok v. INS*, 546 F.2d 37, 38 (2d Cir. 1977).

In addition, DOS and DHS with all of their experience trying to create machine-readable admission documents are still not utilizing the full biometric capacity of documents for admission to the U.S. Biometric scanning options have not met with success even with the use of greater Federal resources. The issuance of international admission documents for U.S. citizens is not an area for the State of Texas to waste funds upon when the PASSCARD will soon be available for issuance. Instead, efforts should be focused upon demanding that the Federal Government implement enhanced inspection processes as well as infrastructure and staffing improvements. DHS cannot even figure out a way to allow SENTRI and NEXUS holders to use their admission documents interchangeably at the northern and southern borders. Contemplate the use of State-issued EDLs at all ports of entry.

*SENTRI and NEXUS.*—§ 7208(k) of ITRPA regarding expediting travelers across international borders via the use of registered traveler programs mandates that applicants be provided with clear and consistent eligibility guidelines. Although CBP has information on such registered traveler programs on [www.cbp.gov](http://www.cbp.gov) as well as published regulations at 8 CFR § 235.7 as to automated inspection services, users and those desiring to use frequent traveler programs continue to receive conflicting messages from CBP enrollment centers and management as to eligibility standards for such programs as SENTRI, NEXUS, and FAST. This criticism was outlined in the Office of Inspector General report entitled, "A Review of the Secure Electronic Network for Travelers Rapid Inspection Program," dated April 2004 (OIG-04-14). Page 15 of this report notes, "CBP has not established thresholds for allowable violations, arrests, or convictions before an application must be denied." This criticism is still applicable. As noted in the September 27, 2007 issue of the Northern Light: "Despite broader uses for the NEXUS card, including the likelihood it will be accepted as an alternative to a passport when they become mandatory for entering the U.S. next year, membership in the program appears to be dropping. This summer the original memberships in the program—25,446 issued in the second half of 2002—began to expire. According to figures provided by Hicks, 2,205 renewals were issued (two were denied) in July and August 2007, outpacing the new applications, 1,428 of which were approved during that period (133 were denied). However, by the end of August Hicks reported 3,198 memberships had expired and not been renewed. During the same period, 96 people had their NEXUS memberships revoked. The program therefore lost almost as many members as it gained in a 2-month period—perilously close to negative growth. What determines admissibility to the program? Those who have been denied membership complain that they don't know why, with letters stating only that they are 'otherwise ineligible' to participate in a trusted traveler program, but not providing the basis for determining ineligibility."

Decreased usage of registered traveler programs does not improve security. Currently, the statement in 8 CFR § 235.7 allowing an officer to deny a PORTPASS to someone who is "otherwise determined by an immigration officer to be inadmissible to the United States or ineligible to participate in PORTPASS . . ." should be void for vagueness. This language and that of the similar provisions published on [www.cbp.gov](http://www.cbp.gov) (e.g. "cannot satisfy CBP of their low-risk status") provides the public no predictability as to program eligibility as mandated by the ITRPA. Furthermore, for those caught in this purgatory of the bar or ejection from participation due to this vague provision, the current process of review provided through the CBP ombudsman allows no meaningful review or confirmation of any security risk presented. Often, the applicant is not questioned to clarify whether certain rumors regarding the applicant might have any basis in fact. This status quo is totally unacceptable and serves no security interests, if indeed the desire of our Government is to apply intelligent security risk assessments.

CBP should follow the recommendations of the OIG report and publish more specific guidelines as to the security risk assessment bases for ineligibility to frequent traveler programs. A zero-tolerance policy does not provide a valid risk assessment. The following points, which are utilized daily in the review of various waiver eligibilities under U.S. immigration law, should be considered:

- A. Length of time since commission of offense;
- B. Penalty imposed for commission of offense;

- C. Potential risk to national security (identify risk and allow submission of documentation for review as well as a personal interview);
- D. An arrest versus a conviction shall not serve as the sole basis for denial of frequent traveler privileges.

The standards of inadmissibility under § 212(a) of the Immigration and Nationality Act could also be applied in a parallel manner to the frequent traveler programs of NEXUS, FAST, and SENTRI. As to frequent traveler programs needing to set a higher standard due to decreased primary inspections, this higher standard is already applied because of the increased biographic and biometric review mandated by the programs. Further, the review process on denials and revocations in these programs must allow for a personal interview and the provision of additional information. The refusal to make sure that information being used is accurate serves no security purpose.

### III. CROSS-BORDER CONSULTATION AND COOPERATION HAVE A LONG AND SUCCESSFUL HISTORY ALONG OUR SOUTHWEST BORDER

The Paso del Norte region has a rich and long trade history. El Paso was originally founded by Spanish explorers in 1581. In 2003, trade through the land ports along the U.S.-Mexico border represented about 83 percent of the trade between the countries. As to numbers of inspection of people, El Paso surpasses all ports of entry in Texas. This trade volume and active cooperation between local community groups and their corresponding associates from Mexico have resulted in several firsts from a security and trade perspective in El Paso:

1. First Dedicated Commuter Lane in the State of Texas using Secure Electronic Network for Travelers Rapid Inspection (“SENTRI”) through a partnership with the El Paso Chamber Foundation for infrastructure funding.
2. First Expansion of an Existing Cross-Border Bridge (Bridge of the Americas—“BOTA”) funded with local trade community voluntary funding project.
3. First and second commercial Fast and Secure Trade (“FAST”) lanes for commercial traffic in the State of Texas.
4. First pilot land border use of the Pulsed Fast Neutron Analysis (“PFNA”) technology.

Regular meetings are still held between Federal, State, and local U.S. and Mexican counterparts regarding the ongoing operations of the FAST and SENTRI lanes operating between El Paso and Ciudad (Cd.) Juarez, as well as concerning our shared ports of entry over the Rio Grande river.

### IV. INSPECTION IMPROVEMENTS

In order to improve efficiency and security at our ports of entry, we should consider:

- A. Options to maximize limited resources, such as the additional staffing necessary to allow for staggered inspections booths to be placed on inspection lanes to increase lane capacity.
- B. Assess port's capacity by reviewing available full-time inspectors and inspection demands to determine allocation and need for additional resources.
- C. Create a port of entry devoted to FAST commercial crossings.
- D. Increase Frequent Traveler Program use by establishing standards that are more predictable and a meaningful review process.
- E. Even if DOS does not have the PASSCARD (for U.S. citizens) ready to process—establish a way to allow for electronic intake of the application now due to the implementation date of WHTI. Note that when the Dedicated Commuter Lane was started in El Paso, the local Chamber and Foreign Trade Association provided information on the process and initial data intake to reduce the processing burden. Another option may be to expand the capacity of the EVAF electronic visa application system or the INFOPASS system used by CIS to accept PASSCARD information. DHS should also be required to report to Congress on the readiness of all ports based on staffing levels and infrastructure to use PASSCARDS as well as e-passports and resident alien cards for admission purposes. The same information must be provided to Congress as to interim measures requiring inspectors to review birth certificates or other documentation of U.S. citizenship.
- F. The SENTRI inspection process should be geared to eliminate primary inspection. There should be no need for questions in primary, unless there is a reasonable suspicion of some violation, which should result in secondary referral.
- G. Security and legal compliance have suffered due to the One Face at the Border program in which inspectors are to become jacks-of-all-trades and arguably

masters of none. Senior specialists must be assigned to provide regular training and review of the application of customs, immigration, and agricultural laws among others at our ports of entry. Advancement must be tied meeting educational and performance criteria within CBP.

H. We still do not have consistency on the return process of the I-94 card. When the I-94 is sent to Kentucky by those who do not turn it in upon departure, we do not determine if the entry in the database made by Kentucky office as to departure compliance is accurate. So, do not require I-94 return at the ports, but do create a standard process for submitting information as to departure, which can be input into US-VISIT as needed. Give the I-94 holder some grace period (e.g. 30 days) to confirm departure electronically. If banks can be required to report if money is coming from outside the United States for reporting purposes, surely departures must be able to be reported electronically.

I. Add a subset to frequent traveler programs by allowing B-1/B-2 I-94 applicants to provide additional information as required to obtain a pro forma 1-year I-94 for business and visitation purposes to reduce the need to apply for multiple I-94s during the year. The regulations already provide this latitude, but this validity period will reduce the burden on CBP to keep reissuing shorter-term I-94s to those with a 10-year laser/BCC or B-1/B-2. In addition, provide expedited processing lanes to separate those with valid I-94 cards.

J. Add a benefit to the Customs Trade Partnership Against Terrorism (CTPAT) program from the immigration area by allowing current employees of CTPAT certified manufacturers to be approved for 1-year business visitor I-94s, if the person possesses a B-1/B-2 or laser visa. In addition, provide for a specific time frame and location for such I-94 applications to be made to reduce processing times. In addition, allow such companies to report I-94 departure compliance through uploading such information to the company's CTPAT information on the CTPAT database.

K. Create product line inspection lanes and train inspectors to be able to process those types of admission applications. For example, a lane for U.S. Citizen and legal permanent residents. Another lane could be established for those with valid I-94s.

L. Establish a state-of-the-art methodology for determining current wait times at each port to allow for timely shifting of resources.

M. Work on modification of union agreements as necessary to enhance the flexibility of resource use.

N. Provide incentives for efficient passenger inspection without loss of security similar to those provided for drug busts.

O. CIS already has overseas offices. Establish a CBP office at the U.S. Consulate in Cd. Juarez to provide pre-input of data necessary to effectuate admission of the nonimmigrant or nonimmigrant visa holder. A standard CBP initial I-94 could be provided at the consulate for swiping upon application for admission. Think of airline processes for data scan for use in this scenario.

P. Establish inadmissibility specialists to prepare appropriate documentation to improve efficiency and accuracy.

Q. Provide clerical and administrative support sufficient to free up CBP inspectors to focus on tasks, which utilize their training to its highest and best use.

#### V. RECENT DEVELOPMENTS AND OPPORTUNITIES FOR COLLABORATION

If signed by the President, the Consolidated Appropriations Act of 2008 (H.R. 2764) (omnibus bill) will provide some necessary relief regarding the current pressures being placed upon the land border by the Western Hemisphere Travel Initiative. Section 545 of Division E of the bill delays implementation of section 7209(b) of the Intelligence Reform and Terrorism Prevention Act of 2004<sup>19</sup> regarding the use of certain travel documents by U.S. Citizens and other applicants for admission for whom documentation requirements have been waived (e.g. Canadian Citizens) until June 1, 2009. This delay makes sense in light of delays in the implementation of the DOS PASSCARD as well as the upcoming wave of renewal demands for Mexican laser visas upon the State Department. In the interim though, border communities and the relevant Federal agencies engaged in visa issuance and admission inspection must consider alternative private and public sector informational and process initiatives to improve and facilitate the issuance of Frequent Traveler Cards as well as PASSCARDS.

In addition, the Registered Traveler Programs promoted in section 7208 of ITRPA as well as section 565 of the omnibus bill will not flourish without a thorough re-

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<sup>19</sup> Pub. L. No. 108-458 (ITRPA).

view of the current Zero Tolerance Policy applied in the NEXUS and SENTRI programs. U.S. immigration laws provide a long history of risk assessment from an admission perspective, which has been seemingly ignored by the current less than transparent standards required for participation in registered traveler programs. To improve enrollment as well as security, it is imperative that this policy be revised and clarified, and that true security threats be readily assessed and addressed. A registered program must be devised to include those who are frequent border crossers without such high enrollment costs and the Mexican government must be fully engaged to reduce the prohibitive costs applied on SENTRI enrollees in the El Paso area. Further, inspection processes must be further abbreviated for those enrolled in these programs. I am sure that the El Paso community would be an excellent test site for a variety of options to try to define and create these programs.

Mr. CUELLAR. Thank you, Ms. Walker, for your testimony. At this time I will recognize myself for 5 minutes of questions. Ms. Walker, you know, this new requirement is coming in on January 31, asks for an ID or driver's license or birth certificate. What effect do you think this will have, this rule will have in our communities? Let's say El Paso as an example.

Ms. WALKER. I can already tell you that just in the time frame that they test-drove just looking at driver's licenses, which I think, my speculation of the idea behind it, was just to see what it was like to have U.S. citizens asked to show something, was one of delay. You've got to have proper rollout in public engagement and public education to be able to do that.

But on the flip side, you've also got to realize that that's going to suck up time from an inspector's perspective, and you need training there, as well. So I think, yes, it will cause waits, and it won't necessarily increase security, and you won't know that the person is a U.S. citizen.

Mr. CUELLAR. From your observation do you think they have the training, the efficiency, the effectiveness to be able to move people quickly? Because I've heard the Government say: Oh, but it's only going to take, you know, 15 seconds, or it's going to take only 30 seconds. Let's say it takes 45 seconds.

Ms. WALKER. What will you know in 45 seconds by looking at a driver's license?

Mr. CUELLAR. That's right.

Ms. WALKER. Let's talk about a U.S. citizen on a different note. Only 2 percent of individuals have to actually go through US-VISIT on entry in land borders, as we know. Even in that context we haven't seen the true impact of US-VISIT.

Mr. CUELLAR. So if you add 45 seconds, you're the first person, that's 45 seconds. You're the second person, that's another 45 seconds. That's a minute and a half. If you're the third person, you add another 45 seconds. You keep adding hundreds and thousands—if you're the number 2,000 at the end of that day, 45 seconds times 2,000, that would add—

Ms. WALKER. As you well know as a border representative, that any additional time frame, you're supposed to weigh the time it takes against the security gain. I think the cost benefit analysis, if you want to put it in economic terms, is a loser in that circumstance. It's not because we don't want to improve security, and it's not because we don't want to get there. It's just the placebo doesn't really serve its purpose.

Mr. CUELLAR. Okay. Thank you. Question to Ms. Kelley, then I will go ahead and transfer this over.

In your estimation, how many new CBP officers would the Agency need to hire to properly staff our ports of entry?

Ms. KELLEY. At this point our suggestion and what we're asking for is an additional 4,000 CBP officers across the country to be, you know, distributed at all the ports of entry.

You know, there is some history to this. If you go back to Commissioner Ray Kelly, who was commissioner back in 2000, he actually submitted a report to Congress saying that at that time he believed the U.S. Customs Service—and, of course, today CBP is the U.S. Customs Service plus Immigration plus Agriculture—but his estimation at the time on the report he submitted on a port-by-port analysis was that Customs needed 14,000 employees at that time, and that was before September 11. So, you know, it's hard to know for sure.

CBP has the best information about the passenger processing and border crossings and cargo entries and all of those things, but their own model said they need thousands of additional employees. So at this point NTEU is asking for Congress's support for an additional 4,000 CBP officers, and that is in addition to all of the vacancies that they currently have and aren't filled.

Mr. CUELLAR. Could I ask both of you to provide to the committee the number of adequate staffing we should have? But give me—don't just give me a global number. Give me the rationale or how you break that down as to how you got up to the 4,000 whatever the amount might be.

Ms. KELLEY. I'll be glad to give you our best guess, but let me clarify, it is that, because the specific information about staffing at the ports of entry is held by Customs and Border Protection. They believe it's a national security issue, and so there is not specific information that they will give to me. They will give it to you. They will give it to Members of Congress. But I will be glad to give you the information as to how we arrived at the 4,000. I'll be glad to do that.

Ms. WALKER. Respectfully, I have a list of, let's see, 18 different reports I've collected since 1999 that establish staffing needs. If acceptable to the committee, I would like to append that to my testimony.

But, again, the problem, when you ask the question: What will it take? If you don't put it in a really small context of as far as an inspector on the line available to inspect individuals versus staffing at the ports, I don't think it will be a very lucid—or maybe it will be lucid but accurate answer in order to make that evaluation to support staffing capabilities.

Ms. KELLEY. If I could also add, it does depend on what priority CBP sets for the work to be done. One of NTEU's biggest concerns is that under the One Face at the Border initiative the expertise that these officers have and have acquired over the years from doing this work has been lost. They are not able to use that expertise to pass on to others. They put them all in one uniform, said they were going to cross-train them so that they would know a little bit about everything. But the bodies of law rule and regulation in each of these areas, Customs, Agriculture, and Immigration, are very voluminous and very specific. Years and years of experience on the front line is what makes these officers as good at this as

they are, and they're not being able to use that because of this One Face at the Border initiative. I believe it's a good slogan for CBP to say they have One Face at the Border. I do not believe it is helping them to do their job or helping these officers to do their jobs at the front lines.

We heard reference by GAO to fleshing the lanes. Well, if CBP's intent is to flesh the lanes when the lines back up, then you need one level of staffing. If their intent is to do the inspections that these officers know need done and that I believe CBP wants to do but they need the staffing to do it, then you need a different level of staffing. So it really depends on what the judgment is given to these front-line officers to do. That is a big part of their job, is their professionalism and their judgment as to whether an entry is good or not, whether it should be sent to secondary or not, whether it should be looked into further or sent back. You know, that's—you can only do so much if you don't have the staffing.

Mr. CUELLAR. All right. Well, again, as Members of Congress, we want to help, but we need to know what the accurate number is because we've been hearing different things and getting piecemeal information. So if both of you could provide this, and I'm sure we'll get it from our assistant commissioner, also, so we can look at the numbers so we can then make that decision. But we want to thank you.

At this time the Chair recognizes Mr. Davis from Tennessee for 5 minutes.

Mr. DAVIS of Tennessee. Thank you, Mr. Chairman, and before I ask a question, I would like to say I'm very impressed with the dedication of Federal employees I saw. Thank you for what you do. Thank you for your dedication that I saw at the border crossing and I saw this week as I traveled across the area. I really appreciate that.

The question I'd like to start with, Ms. Kelley, if you would: Would you tell me a little more about the law enforcement officer status that was just granted, and do you think it went far enough, and talk about that concept for me, please?

Ms. KELLEY. The law enforcement officer status that was passed as part of the omnibus spending bill will provide LEO status to CBP officers prospectively beginning July 1, 2008. I think it is a giant step in the right direction, and it was years and years in coming, and it took a lot of work by Members of this committee as well as many others who stepped forward on behalf of these officers.

The language in the omnibus spending bill was a compromise. Does it go far enough? I believe that most officers will tell you and that NTEU will tell you, we believe they should have had the status 10, 15, 20 years ago from the day they were first armed and required to be armed as a CBP officer or a Customs inspector or an Immigration inspector. They have had to qualify at the range three times a year. They have all the authority and the responsibility of a law enforcement officer.

So in the ideal world they would be granted LEO status retroactively from the day that they first held that status. But this omnibus spending bill is a giant step forward and is—like I said, was a lot of hard work by a lot of people and will ensure that at least some benefit ensues to each CBPO as of July 1, 2008. Whether

they work 1 more year or 10 more years, there will be a benefit to them with credit for that LEO status as of July 1.

Mr. DAVIS of Tennessee. What needs to be done now? You said that proactive, moving forward, those that will be hired. What do we need to do for those who have worked and have been willing to protect us over the last several years?

Ms. KELLEY. On the LEO issue? Well, the only way to make them whole and to recognize them for the work that they have been doing all these years not being a covered position would be to provide them with that status and that coverage retroactive so that they receive credit for all the years they already served.

Now the issue that has always been identified by the administration is that it's a cost issue, and I recognize that there's a cost attached to it, but I think that there's a bigger cost, if someone would ever measure it, of the turnover that is occurring because of the lack of LEO status of these officers by them moving to other positions that are covered.

Mr. DAVIS of Tennessee. That's one thing that I picked up on last night. Fairly successful in bringing in new employees, but after the training they move on to another position that has coverage. Do you think this will help the morale of those that are going to be hired, and what do you think it will do to the morale for those who have been there for awhile?

Ms. KELLEY. You know, it will definitely help. It is long overdue, and I know it's much appreciated. The recognition in the omnibus spending bill to these officers has been very much appreciated and articulated to me across the country, and I do think that it will help the morale.

That being said, while this is a huge issue on the morale front, there are so many other issues within CBP's control that aren't about cost, aren't about giving them LEO coverage, aren't about needing some action of Congress. CBP has, in these CBP officers, the skill and expertise of hundreds of years that is not being tapped into. There was a time when NTEU worked with CBP on issues, on work-related issues as to how to get the work done better. These front-line officers have a lot of ideas about how to do the work better, about how to make it safer, about how to make it faster, about how to make it more efficient. It is not being tapped into.

The atmosphere in CBP is that they are told what to do, how to do it, when to do it, how long to take to do it. There is nothing that's being done to engage NTEU and these front-line employees in making the operations of CBP more efficient. Whether it's about working free doubles or whether it's about how they're assigned work or working three or four 16-hour shifts in a row, I mean all of those things are—they do come back to the staffing issue, but they are things that are within CBP's control. All of those things I outline in my testimony impact the morale of these employees.

You know, someone had asked earlier about if they were rated 35 out of 36. There were actually two surveys. One survey is best places to work, and the employees rated Homeland Security as 29 out of 30, every year the survey has been done, not the year they stood up as a new department, every year since. As you so appropriately noted, it's been 5 years. I mean that excuse is kind of over, you know, and shouldn't be used anymore.

The other survey made, the employees rated them 35 out of 36 on three—on the three out of the four top key issues. The first year this happened I talked to the Secretary of Homeland Security—the deputy secretary, and he was very dismissive of this. He said, “We’re a new department; this is expected.” It was really just unbelievable that he was so dismissive of the voices of the front-line employees. That has not changed over these 5 years. It has not changed. These employees want to be involved. They want to share their expertise. They want to make the operations better, and they’re not being allowed to do that.

Mr. DAVIS of Tennessee. Well, one last question. As elected officials, the American people want to see efficient use of their tax dollars, and you just testified there’s hundreds of ways we can improve morale without increasing the amount of money we get from the taxpayers. That being the case, will you provide us a list of some of those things so that we can again provide it to the—

Ms. KELLEY. I will be glad to do that.

Mr. DAVIS of Tennessee. Thank you for your testimony.

Mr. CUELLAR. Thank you, Mr. Davis. At this time the Chair will recognize Mr. Carney from Pennsylvania.

Mr. CARNEY. Thank you, Mr. Chair. Ms. Kelley, we know that there’s inadequate cross-training going on for some of the jobs, and that some folks get 2 weeks training and some get 12 to 14 weeks. Has CBP done anything to try to address this?

Ms. KELLEY. No. Initially when they announced the One Face at the Border slogan, they had a training—a cross-training plan, and there was no way they could ever deliver on that, just because there wasn’t enough staffing. You couldn’t pull the officers off line to do all the training that they had outlined. So over time they’ve adjusted their training plan.

Unfortunately what has happened now is the 12 to 14 weeks that you mentioned are actually the first weeks they spend at the academy as new hires. That training is intact and it goes on, you know, as they do their hiring. It’s once they’re back at the port that the delivery of training falls apart.

Most of the training I hear about is a CD. They’re given a CD and told to view this on the computer. It may be a 2-hour session, and they’re told to get it done in 30 minutes because they really can’t be off the line for 2 hours. There’s no interaction. There’s no opportunity to ask each other questions, to talk to an instructor and bounce ideas off them. So I would say that’s how most officers would describe the training that they’re receiving today.

Mr. CARNEY. Okay. The triple doubles at CBP, what’s being done to alleviate that?

Ms. KELLEY. You know, I have to tell you this. Free double—I mean the idea that you would work someone 16 hours and then schedule it so that you have an excuse, you think, not to pay them overtime for the second 8 hours, like I said, I just think that’s appalling.

You know, why they do it, you would have to ask them. When I became aware of this, I was told that for a while when it was brought to management’s attention it stopped, but I understand that it has started up again. I will be addressing this when I get back to the District of Columbia.

Mr. CARNEY. Ms. Walker, you've done a number of immigration cases, correct?

Ms. WALKER. Yes, sir.

Mr. CARNEY. If you were an immigration attorney representing clients, would you find sort of fertile ground to go after CBP or whoever because you run across agents who are on their 16th hour in their third shift and they made a mistake because of fatigue? What are the legal ramifications here, if there are any?

Ms. WALKER. I think it works both ways. What I can also tell you is we have about 35 chapters across the United States within the American Immigration Lawyers Association. We have two different CBP-related committees that report in information from different ports, both north and south.

The problem that we see is that you've got new people coming on board. There's a lack of training. So you've got errors made to the good and errors made to the bad because people just don't know. So you'll end up admitting someone in the wrong category or not recognizing that there's a ground of an inadmissibility applicable to the individual, just because of lack of training, or you'll end up with a simplistic situation in which it should be simple and the person should be admitted, but because they don't know the regulation, then the person is not admitted, which takes two and three times the amount of time then to try to fix. So it's a waste of time and energy. So that training is critical, and it's to the good and to the bad.

Mr. CARNEY. Well, if you believe Mr. Davis' team, it also takes taxpayers dollars, as well.

Ms. WALKER. No question.

Mr. CUELLAR. At this time the Chair recognizes Mr. Reyes for 5 minutes.

Mr. REYES. Thank you, Mr. Chairman. Ladies, thank you for your testimony here this morning. Now I'll just point out to the Chairman and the Members of the committee that Ms. Walker I consider an expert on border issues. In fact, I've had the privilege of submitting her as a nominee under the previous system for commissioner of INS, so we're certainly pleased to have you here for this. Thank you very much.

Ms. WALKER. Thank you for the chance.

Mr. REYES. Ms. Kelley, I'm wondering, you heard some of the previous testimony. You obviously know the challenge and how difficult working at the ports of entry is. Do you have any recommendations on incentives or other ways that we can—that you can recommend to the committee for consideration in terms of recruitment, retention, traditional issues that affect our ability to have sufficient personnel working on those bridges and those ports of entry?

Ms. KELLEY. You know my understanding is on the recruitment front, that when CBP opens announcements, opens vacancy announcements, they get tens of thousands of applications pretty quickly, so that there is always that initial interest. What I see as the problem is the retention issue. Once the employees are here, they are not valued and respected. Their expertise is not respected, and they're not involved in how to help CBP be most effective. It gets down to these morale issues.

You know I heard the previous panel testify and say that one of the reasons for the turnover was this new generation that wants to have four or five jobs and that there have been a lot of retirees. Well, yes, there have been retirees, but I believe the biggest turnover factor CBP has seen is not retirements, it is officers who were hired who come, they're here for 2, 3, 4 years. It is not a place they want to work, and so they go elsewhere. That is a cost that has never been measured, the cost of having to train new hires because there's so much turnover.

You know, for me it is a very basic issue of respect and of acknowledging the expertise that they have and the skills that they have and the judgment and the professionalism that they have and letting them use that.

You know, also in the prior discussion, you know, all the conversation about infrastructure, and some of the things that GSA testified to I was very pleased to hear. But in all of those discussions, they're between GSA and CBP, and never once at the ports of entry where the construction is being done here in El Paso, NTEU has not been involved in those discussions. That doesn't mean that we get to decide what construction is done and where the bridge is, but as they start making design decisions about how the passengers will flow, how the traffic will flow, how cargo will work, these front-line officers have a lot of really good ideas about that. There is zero opportunity for that to happen, and that is why employees are leaving.

It's not—you know, it's not because—some, I'm sure, you know, in the next generation might want to have a couple of jobs, but I can tell you I talk to these officers as I travel around the country, and it is not an environment where they want to continue to work, where they feel that they're allowed to do the best work they're trying to do for the country.

Mr. REYES. Mr. Stana made mention of the issue of morale and the surveys that have been conducted. Has your organization done any studies similar to that?

Ms. KELLEY. Actually we have not done our own survey, because we think that, first of all, I'm sure there would be many just waiting for us to do our own survey and to take issue with the results that we would post. So we think it's better that OPM is doing the survey and that the Partnership for Public Service is doing the survey, and that employees are making it loud and clear, not just through NTEU, that they rated them as 29th out of 30th in best places to work. In the OPM survey they ranked 35 out of 36 on the key four questions. This has been year after year. If this were a 1-year phenomena, then there might be something to this: It was a big reorganization, 22 agencies, a lot of change.

But, you know, as I mentioned and as the committee noted, that was 5 years ago. That as an excuse—the time for that as an excuse is over. Year after year employees continue to answer the survey the same way. It's an OPM survey and a Partnership for Public Service survey. CBP is doing nothing to address this.

I have heard just recently another executive at CBP told me how seriously Commissioner Basham takes the survey, and I was very glad to hear that. I can tell you the next time Commissioner Basham and I meet we're going to talk about the survey and what

it is that he can point to that CBP says they're doing to address those issues, because I can see them doing nothing, absolutely nothing to address the employee voice in the survey.

Mr. REYES. In that vein, Ms. Walker, I guess I'm curious, if you were to get the opportunity to either be considered for either Mr. Basham's position or Mr. Chertoff, what are the three things, based on your experience and knowledge of the border operations, what would be three things that you can mention, or a couple that you would prioritize to address the issue of staffing at the ports of entry?

Ms. WALKER. It's an interesting idea to have the opportunity to say something on that. First of all, I think I would have a ready answer that the staffing is inadequate. I think also that having an analysis before you in which you're able to see the number of inspections per port that they're trying to handle and then being able to allocate resources according to actual volume would be important.

Then the training modules, how they're currently conducted, I just don't think it's working. I think that the One Face at the Border has got to be morphed into a multifaceted face with one mission statement but with clear accountability for making sure that people have the tools that they need to achieve the objectives. When they can't get there, somebody has got to actually say to Congress, I can't get there because of X. If the results are losing your job, so be it, but someone needs to tell exactly what's going on.

Mr. REYES. Do you see a role for technology in terms of perhaps facilitating the—

Ms. WALKER. I think technology, yes, sir, has a clear role, but I don't think that it replaces the importance of the human element. I would say that the human element is more important than any piece of technology and that technology is merely a force multiplier. I tried to include in my testimony two examples of how it was the inspector and the inspector with an incredible amount of experience who is able to spot individuals, not based on whether or not the particular red light flashed regarding an indicator that the person might have a problem. The 19 hijackers all had visas.

Mr. REYES. Finally, I think one of the key elements in addressing morale and staffing and all these, assuming that we can staff up to a level that's adequate where the ports of entry can be managed, is having the employee buy in or be a stakeholder. Have either of you got any ideas of how that would be accomplished or how that would be possible, to make an employee a stakeholder in the bridge operation, in the port of entry operation?

Ms. KELLEY. I will give it more thought for more specifics, but I will tell you this, Chairman Reyes. There was a time when NTEU and unions across our country worked with Federal agencies in what was called partnership, a word that is not allowed to be discussed in this administration. When we worked in partnership, one of the best examples I can give you was, there was an effort by Customs at the time, the U.S. Customs Service, they were looking to enhance their drug interdiction program, and they recognized that the front-line inspectors who did this work would have a lot of good ideas, and NTEU and Customs worked together on a

project that became known as Brass Ring. It was a very, very successful program where we saw the seizures of drugs increase incredibly, and it was because, whether you call it a stakeholder or because they were tapping into the front-line employees, but it was management and front-line employees and NTEU, all the way up and down the chain across the country, working together. But that message came from the top. That message came from the commissioner at the time that this is how we were going to do this.

It was supported. Was there some risk attached for both management and for employees in the union to, you know, to all get together on this from a stakeholder perspective? Sure. But everyone recognized that it could be done better, and everybody wanted to be a part of that. They wanted a chance to make it better.

You know, I've heard it said here today, and I'm glad to hear it because it needs to be said more, that the front-line employees of Customs and Border Protection do an outstanding job every day. They are dedicated, committed, and they are determined. Even with morale as low as it is, these employees do an incredible job every day at every port of entry in our country. They don't let the morale issue get in the way. It may make them leave CBP and go look for another job, but when they're here, they're doing the job that needs to be done for our country. They deserve the respect and the inclusion—stakeholder, you know, like I said, whatever the word is. I've always said I don't care if it's called partnership. It just is good business sense to me, and it's how you keep a work force involved and invigorated and how you make the Agency better every day.

Ms. WALKER. There have been various projects here in El Paso, for example, like the I-94 auto population software, and unless you really get into inspections, you won't appreciate what that means, but it came from people here in the El Paso Field Office.

What I've seen from CBP here in the El Paso Field Office for over 20 years is dedication to task. But how can you keep up morale when you can't achieve the objectives you wish to? I think that's what should be facilitated. I think also this idea of making sure that you have empowerment of people that are serving, that indeed you need to go ahead, and sometimes just the ask is the most important thing and the follow-through on the ask. I think I don't see that necessarily always carried out.

I'm tired of just seeing awards for drug busts. I want to see awards very publicly for great inspection jobs, for innovative ideas, and for actually perhaps knowing 8 CFR 214 really well, among other provisions.

Mr. REYES. Thank you, Ms. Walker.

Mr. CUELLAR. Thank you, Mr. Reyes. Members, any other questions?

All right. At this time I want to thank the witnesses for their valuable testimony and the Members for their questions. The Members of the committee may have additional questions for the witnesses that we ask you to respond to them as soon as possible in writing to those questions.

We want to thank Mr. Chairman, Chairman Reyes. We appreciate the leadership that you and Mr. Rodriguez also have provided, especially you as the chairman of the intelligence, we appre-

ciate everything you've done. Thank you for hosting us here. We want to thank you very much.

Hearing no further business, the committee stands adjourned. Oh, I'm sorry. I'll unadjourn this. I'm sorry.

There are some statements from some of the local folks here. Some of the—I know we got one from Commissioner Miguel Teran and a couple other folks. I would ask that those, just like we did a while ago, that we ask unanimous consent that this be part of the record also for the committee. No objections? So approved.

[The statements of Mr. Carrillo, Mr. Cook, Mr. Dayoub, Mr. Conde, Mr. Shapleigh, Mr. Stamper, and Mr. Teran follows:]

STATEMENT OF VICTOR CARRILLO, COUNTY SUPERVISOR, FIRST DISTRICT, IMPERIAL COUNTY, CALIFORNIA

DECEMBER 15, 2007

I want to thank the committee for taking the time to address the important issue of delays at the international ports of entry and the resultant economic and social costs to the communities along the U.S.-Mexico border.

I live in Calexico, California a community of roughly 30,000 people that is separated by a fence from the Mexican mega-city of Mexicali, which boasts a population of about 1,000,000. The economy of Calexico is almost totally dependent upon Mexicali, both for our retail segment that exists primarily because of our proximity to the border and our agricultural and logistics industries that rely on workers and trade from Mexico. Even our education sector is being affected as Mexican parents have begun taking their children out of several private schools in Calexico that cater to families in Mexicali who wish to have their children learn in an English-speaking environment.

Calexico belongs to the Imperial Valley Association of Governments (IVAG) as does the County of Imperial. IVAG, in cooperation with our State transportation agency jointly undertook a study that was released in late November that quantified the economic costs of the long delays that are experienced by persons trying to cross the border through either of Calexico's ports of entry. Normal waits range in the 1-hour time frame, but often can be as long as 2 to 3 hours. These delays are having devastating effects on our economy and on the economy of Mexicali as well.

I won't go into too much detail about our study here, other than to present a few of the most staggering findings. The total output loss for both personal trips and freight movements combined for the United States and Mexico is estimated at \$1.4 billion in 2007. And nearly 11,600 jobs are sacrificed because of the reduction in output. Even worse the findings show that if the delays continue to grow, the impact on the Imperial/Mexicali Valleys will double by 2016.

In San Diego, a similar study was completed in 2006 that looked into the costs of delays at the ports that join San Diego and Tijuana, Mexico. Their study showed similar staggering economic consequences of the long border crossing delays. When one combines the findings from the San Diego study with the IVAG study the combined costs for California/Mexico crossings exceeds \$8.6 BILLION and a loss of employment of 74,000 jobs in the in the California/Baja California region.

Clearly something has to be done soon to alleviate these conditions. We have to find ways to move people and goods in an efficient manner that does not compromise our national security goals. The most obvious short-term solution is to create more lanes at the borders and to hire a full complement of inspectors to man these lanes to keep the delays to an absolute minimum. Those are solutions that can work in the short term. A real permanent solution is going to involve the implementation of more technology that will enable the inspectors to move persons and goods through the process much more quickly with a higher degree of security than we currently maintain. It is folly to spend most of our money today on programs to build more fences and technology to keep people out of the country without a corresponding increase in expenditures to expedite legitimate border crossings with a higher level of security. The expenditures made to expedite commerce at the ports of entry will enable the recovery of the lost economic opportunities which will in turn provide some return to the Federal treasury in the form of taxes and duties on the increased economic activity.

We have to be able to deliver new and expanded ports of entry much faster than it currently takes. The downtown Calexico port is currently undergoing the planning

for a significant increase in number of vehicle and pedestrian lanes that will be available. The problem is by the time the expanded port is opened in 2012 or 2013, it will already be obsolete. We need to be planning many more new lanes and be more creative about how we finance these ports.

In California, traffic congestion on our freeways is impacting the movement of people and goods to an extent that a solution that would have been universally rejected a decade ago is now becoming a commonplace solution to speeding up the delivery of badly needed transportation capacity improvements. This solution involves various models of public/private partnerships and tolling. At the Federal level, the Department of Transportation and the Secretary have embraced the concept of using tolls as a means to speed up the delivery of critical goods movement projects.

DHS needs to come to the same rational understanding that the only way to finance the necessary capacity expansions at our border crossings is by a pay-as-you-go system. The studies that I referred to earlier on the cost of economic delay asked border crossers if they would be willing to pay to access a shorter wait time at the border. Seventy percent of the crossers indicated a willingness to pay \$3 to cut the wait time to 20 minutes or less. A smaller number indicated a willingness to pay \$5 or more to cut wait times in half. The reality is that toll lanes can help us deliver more lanes, more technology, more staffing, and more security. This will also increase the level of taxable economic activity thus providing more tax revenue to government at all levels.

In Mexico many of the new expressways are toll roads. This is accepted as long as there is an optional way for travelers to reach the same destination on a slower free road. This is surely a concept that we should consider as we develop strategies to improve the efficiency and capacity of our border crossings. Obviously the same concepts work on the cargo side of the border crossing situation since delays at the border are more easily quantified in economic terms and a subsequent willingness to pay for improved productivity is a long-established business practice.

Finally, I want to comment on the issue of granting CBP officers law enforcement status. We are constantly facing shortages of trained CBP personnel because other DHS officers have full LEO status and the corresponding benefits. Even when CBP is able to recruit and train officers, they often leave at the first opportunity to upgrade their status to LEO. The chronic personnel shortage at our border crossings is just one more situation that exacerbates the poor situation that exists at our ports of entry.

The urls for the studies I mentioned earlier are found here:

- VAG Study—<http://www.co.imperial.ca.us/IVAG/EconomicImpactDelaysImperialCountyMexicaliBorder.htm>;
- SANDAG Study—<http://www.sandag.org/index.asp?projectid=253&fuseaction=projects.detail>.

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#### STATEMENT OF JOHN F. COOK, MAYOR, CITY OF EL PASO, TEXAS

Chairman Thompson and Members of the committee: On behalf of the citizens of the El Paso Borderplex, I want to thank you for taking the time to travel to the region to conduct your hearing. As Mayor of the city of El Paso, of course I am concerned with matters of border security, but I am also acutely aware of the fact that any discussion regarding border security must also include an examination of the effects the actions to secure the borders have upon the Nation's economy. The number of components and parts that traverse the southern border on a daily basis and the dependence upon those goods by American manufacturers must not be ignored. The increased costs of excessive wait times to the manufacturers and ultimately the average U.S. consumer of products that cross the southern border more than justify the investments that must be made in technology and work force to maximize efficiencies at the ports of entry. Secure borders and ports of entry that operate efficiently and in a commercially reasonable manner are not mutually exclusive.

#### BACKGROUND

The El Paso/Ciudad Juárez Borderplex has been recognized as the fifth largest manufacturing community in North America and El Paso Texas is the second-largest importer/exporter along the U.S. southern border. According to the Bureau of Transportation, in 2006 exports through El Paso ports exceeded \$21.02 billion per year and imports exceeded \$25.7 billion. Approximately \$97 million in imports and 3,000 commercial vehicles pass through El Paso ports of entry on a daily basis. Imports and exports through El Paso's ports of entry impact 6 percent of the national economy.

At present time there are approximately 340 maquiladora plants in Juárez, Mexico that require commercial transport daily through El Paso's four ports of entry. At least 70 of the companies are Fortune 500 companies and employ approximately 245,000 people. At least 3,400 of the people working in the maquiladoras are U.S. citizens who reside in El Paso and must cross the international border daily. The El Paso Regional Economic Development Corporation estimates that there are 14,000 people in El Paso whose jobs directly support maquiladora operations and another 30,000 whose jobs are indirectly dependent upon them. The national impact of the maquiladora operations is estimated to be in the billions of dollars.

The products manufactured in our border region are goods that are integral elements of the U.S. economy and include:

- Automotive parts;
- Computer equipment;
- Electronic components;
- Appliances.

The border manufacturing community is heavily dependent on exports of raw materials from the United States. It has been estimated that over 90 percent of the manufacturing suppliers to El Paso's sister city, Juárez, operate outside of the border area and are predominantly located in the traditional manufacturing regions of the United States. Exports of raw materials to the manufacturing sector of El Paso/Ciudad Juárez were estimated at \$16 billion in 2006. Delays in delivery of finished manufactured products to the United States caused by bottlenecks at El Paso's commercial ports of entry can result in inefficiencies to the supply chain. These inefficiencies negatively impact inventories and production scheduling in the manufacturing community. Those manufacturing disruptions result in negative ripple effects on the U.S. suppliers of raw materials. In addition, U.S. imports of manufactured components, that traverse El Paso's ports of entry, are critical to the final assembly production chain of original equipment manufacturers (OEMs) in the automotive, defense and electronics industry located in the U.S. border delays of legitimate commercial cargo to U.S. markets result in harmful effects to the manufacturing sector in the United States and the national economy.

#### ONE EXAMPLE

To illustrate the fact the border wait time problem is one of national concern and not solely a local problem, I would like to provide you with one example of a company and an industry negatively impacted by excessive wait times. In the interest of brevity I will only provide this one example, but please rest assured there are hundreds of similar fact situations.

The Delphi Corporation is a leading global supplier of mobile electronics and transportation systems including powertrain, safety, steering, thermal controls & security systems, electrical and electronic architecture and in-car entertainment technologies. The company is headquartered in Troy, Michigan, has approximately 171,000 employees and operates 159 wholly owned manufacturing sites and sales of \$26.4 billion in 2006. One manufacturing site is located in Ciudad Juárez. Delphi is a significant presence at the El Paso ports of entry:

- On an annual basis at least \$100 million worth of Delphi component parts flow into Mexico and come back into the United States as final assembled products for use in the automotive industry.
- Hundreds of trucks carrying Delphi components and parts traverse the El Paso ports of entry both northbound and southbound directions.
- Billions of Delphi products are shipped to hundreds of customers such as, General Motors, Ford, Toyota, Chrysler, Mercury, John Deere, Kia, and Honda located throughout the United States and Canada.
- 400 Delphi employees who reside in El Paso cross into Mexico on a daily basis for work.
- Delphi employees in El Paso create a \$300 million direct impact on the El Paso economy through wages, property taxes, etc.
- Every year thousands of Delphi employees from other facilities travel to El Paso and cross over into Mexico. It is estimated that 8,000 hotel nights are purchased for Delphi employees visiting the El Paso Borderplex each year and 13,000 airline tickets are acquired to get them here.

The majority of Delphi customers utilize "just in time processes" and are dependent upon the quick and reliable delivery of products. While excessive border wait times add costs, they do not add value to finished products. If products are not delivered to Delphi customers in time, there is a risk that production at facilities located in other areas of the United States will be interrupted. Continuous excessive

wait times at U.S. ports of entry jeopardize an entire system and have impacts that reach far beyond the communities located at the international borders.

#### LACK OF DATA

While it is common knowledge that lengthening the time required to traverse the international border is increasing labor costs, transportation costs, accessibility costs, inventory costs and distributions delays, there is no concrete data regarding the total costs to our Nation's economy. I support the efforts lead by Senator Kay Bailey Hutchison and Congressman Ciro Rodriguez to pass legislation to study the effects of the wait times. The compilation and study of comprehensive data and statistics will not only enable stakeholders to find solutions address the issues, it will surely justify the expenditures that must be made in order to safeguard the strategic economic resources the ports of entry have become. I urge you to support the "Border Wait Times Study Act", and to provide the resources necessary to fully study the effects of extended wait times on our national economy.

Our community is also concerned about the environmental impact of thousands of passenger vehicles and trucks idling for extended periods of time at the ports of entry.

To my knowledge there has never been a study done to evaluate the negative effects upon the air quality of the region. Damage to the environment and the health concerns of the residents of the Borderplex should be taken into account when considering measures to mitigate congestion at the ports of entry.

#### DEPLOYMENT OF TECHNOLOGY AND RESOURCES

The men and women who are responsible for securing our Nation's borders on a daily basis and provide the front line of defense against the entry of terrorists and illegal drugs do an amazing job with very limited resources. Unfortunately, our country has neglected to provide the resources necessary to increase their effectiveness and efficiencies in operations. We have failed to make the investments necessary to integrate 21st century technologies into the system and to provide adequate staffing to carry out the increased security measures. In the aftermath of September 11, 2001, through the leadership of Congress, new technologies and manpower were deployed in our Nation's airports that resulted in a systemic overhaul. The changes were made in record time but always with sensitivity toward the marketplace and the traveling public. There has been recognition of the delicate balance required to provide for the security of the traveling public while not overburdening the system and causing the collapse of the airline industry and all the tourism economy. Our country's land ports deserve the same attention and investments.

The "Border Infrastructure and Technology Modernization Act of 2007" is a good first step. I support the passage of this important piece of legislation and urge you to do the same. I do however suggest that selection criteria contained in Section 7 be modified to allow for a demonstration site at one of the busier ports of entry. The selection criteria seem to favor newer, less traveled locations. In order to have a meaningful pilot program, new technologies should be tested in the locations that move the most goods and people.

#### LOCAL INVOLVEMENT

The El Paso community wants to be part of the solution. Our community has a proven track record of success in addressing border crossing issues in a collaborative manner. In the 1990's, our local business community lead by the El Paso Chamber of Commerce partnered with the city of El Paso Federal agencies to design, construct and fund the dedicated commuter lane. We would welcome the opportunity to partner with GSA, CBP and the business community to pilot programs and to work for long-term solutions to the bridge congestion problems.

Thank you again for your time and attention. I am very encouraged by the fact the committee has chosen to come into our community to hear first-hand about this very important issue. Through these types of discussions, Members of Congress who do not represent communities located on the international border may be made aware of the widespread economic impact of trans-border trade. The problem of border congestion is not a local problem and one that affects only the economies of the border communities. Ultimately, the national economy is affected. American jobs may be in jeopardy if the maquiladora system is allowed to flounder because we are unable to find safe and efficient ways to move component parts to U.S. markets and the cost of consumer goods will reflect the increased expenses associated with excessive wait times.

STATEMENT OF RICHARD E. DAYOUB, PRESIDENT AND CEO, AND CONRAD CONDE,  
CHAIRMAN OF THE BOARD, 2007, THE GREATER EL PASO CHAMBER OF COMMERCE

DECEMBER 15, 2007

The greater El Paso Region has long been a thriving multi-national borderplex and is positioned in southwestern Texas and south-central New Mexico on the U.S.-Mexican border. Our region encompasses an estimated population of over 2.5 million. In addition, El Paso is the largest metro area on the U.S.-Mexican border and the region constitutes the largest bi-national metropolitan area in the Western Hemisphere.

In 2003, trade through the land ports along the U.S.-Mexico border represented about 83 percent of the trade between the countries. Together, the top 10 ports of entry account for 98 percent of trade passing through the border. With \$152 billion in land trade with Mexico, Texas surpassed other States by far: California (\$30 billion), Arizona (\$12 billion) and New Mexico (\$1.1 billion). In 2006, El Paso had approximately \$25.79 billion of imports and \$21.03 billion in exports, which put the city only behind Laredo in volume. In addition to trade improvements, the number of individuals crossing the ports of entry daily has also increased. In overall inspections of people, El Paso surpasses all ports of entry in Texas. Many are employed in the construction, healthcare, restaurant, transportation, hotel, elder care, and childcare job sectors, among others.

El Paso's neighbor to the south, Ciudad Juarez contributes \$1.7–1.8 billion worth of retail sales in El Paso per year. In addition to the economic impact that visitors have on our local economy, there is also a very strong economic impact from the maquiladoras (twin-plants) in our region and our Nation as a whole. Maquiladoras are assembly or manufacturing operations that are located in Mexico and can be subject up to 100 percent non-Mexican ownership. Maquiladoras utilize competitively priced Mexican labor to produce equipment and machinery generally geared for export from Mexico. Almost 100 of the 400 maquiladoras located in Mexico are located in Ciudad Juarez. Just a few of the companies that have maquiladoras in Ciudad Juarez include: Delphi Automotive, Johnson & Johnson, A.O. Smith, Elmers Glue, Electrolux/Eureka, Tyco Healthcare, Microcast Technologies, Delphi-Packard Electronics, Tyco Electronics, Honeywell International, Auto Kabel GMBH, Levi Strauss, Toro Company, Hoover, Levinton, Sumitomo, Almeida Sewing Machine Co., and Cardinal Health.

These companies import equipment and machinery all over the United States. As a result of the large number of maquiladoras in the region; El Paso, Ciudad Juarez and Southern New Mexico equates to the fourth-largest manufacturing center, in terms of workers, in North America. In addition, Ciudad Juarez makes up the largest share of maquiladora employment along the Texas-Mexico border with 53 percent (see Exhibit B). It should be apparent that the El Paso economy is very much interconnected with the economy of Ciudad Juarez, and both cities depend greatly on commercial, vehicular and, pedestrian border crossers.

Of the 1.6 million people currently in Ciudad Juarez, 35 percent of the population has visas allowing them to cross into El Paso. There were 15,690,244 private vehicle and 7,508,247 pedestrians that crossed the bridge to El Paso from Ciudad Juarez in 2006 (see Exhibit B). On average, there are 43,000 private vehicles and 21,000 people crossing the bridges in El Paso daily. El Paso's population is expected to grow by more than 60 percent by 2030. As the city of El Paso, Ciudad Juarez, and the surrounding region continue to grow at a rapid pace, it is unrealistic to expect the current bridge infrastructure and inspection procedures to support the region's growth without substantial modifications.

With such a rapid increase of commuter and commercial traffic at the current ports of entry, a productive solution in which to alleviate traffic congestion at the bridges is of critical necessity. Currently, it is not uncommon to experience wait times on the ports of entry from 2 to 3 hours. As a direct result of the long wait times, the Paso Del Norte Bridge (downtown) northbound auto trips have decreased from 2006 to 2007 by 34 percent for the period June thru September and northbound pedestrian trips have increased by 21 percent for the same period. During the same time period there was an 18 percent decrease in northbound auto traffic and a 23 percent increase in pedestrian traffic for all El Paso international bridges.

Previous border studies indicate that auto cross-border shoppers in the El Paso area spend 9 to 10 times more than pedestrian cross-border shoppers per average trip (\$20 per trip vs. \$180 per trip) (Source: UT Pan Am Study 2005).

A recent (unscientific) study conducted by the Diario del El Paso revealed that long border delays have impacted the number of cross border trips made by frequent

travelers on a weekly basis. It is estimated that trips of frequent travelers would decrease by 14 percent if wait times were significantly reduced.

From 2005–2006 sales tax revenues for the downtown zip code (79901) decreased by approximately \$35 million according to the State Comptroller's office previous reporting methodology.

The Texas Transportation Institute recently performed an analysis on congestion delays in our region. The Texas Transportation Institute 2007 Urban Mobility Study analyzed congestion in the United States and assigned two cost components associated with congestion: delay cost and fuel cost. Approximately 700,000 commercial vehicles cross from Juarez into El Paso annually. Utilizing \$75 an hour estimating congestion cost and assuming that 50 percent of the commercial vehicles experience just a 1-hour delay during the year the cost of congestion can be estimated at \$25 million while 4 hours of delays on an annual basis, would increase the cost to \$100 million annually. Per the U.S. Department of Transportation, trade activity (by truck) between United States and Mexico at the Ports of Entry in El Paso averages \$2.2 billion per month (2007).

This trend of increasing lines on the ports of entry and decreasing border crossers is detrimental to the economy of this region and also economically impacts the Nation as a whole, by increasing delivery times and the costs of goods. Solutions to this increasing problem must be formulated.

In recent years the El Paso community has worked with representatives and agencies in Mexico and the United States to create secure and expedient trade and traffic programs, including the first Dedicated Commuter Lane ("DCL") and Fast and Secure Trade ("FAST") in Texas. These successful programs assisted in reducing some of the congestion; however, as the El Paso/Juarez community continues to grow the need for improvements to the current processes and procedures can no longer be ignored.

With our current situation, implementation of 24-hour service at the FAST Lanes is appropriate and essential. We understand that the lanes are currently open during the day and that there is a concern that there is not enough demand for the lanes to be open 24 hours a day. However, if you make the FAST lanes more accessible to commercial vehicles, more maquiladoras are likely to use the lanes, particularly with the current wait times on other lanes often exceeding 2 hours. Any business would jump at the opportunity to cross the port of entry at two o'clock in the morning and wait only 15 minutes versus waiting on line for 3 hours during traditional peak crossing times. If more and more commercial vehicles crossed during non-peak times, the wait times during the day would decrease exponentially. Less time spent waiting on line to enter the United States, would mean American retailers and consumers would receive their products faster and cheaper.

In 1999, the Greater El Paso Chamber of Commerce developed the first Dedicated Commuter Lane in the United States, as a public/private partnership. The Dedicated Commuter Lane is a high-efficient, low-risk commuter lane that enables motorists to cross the border quickly due to pre-screenings and thorough background searches. Only qualified applicants are permitted to utilize the DCL. As of the date of this document, there are 21,000 registered users for the DCL.

Although the Dedicated Commuter Lanes are being utilized, the Chamber would like to address its concerns regarding the efficiency of the DCL application process. The Chamber is particularly concerned with zero tolerance policy that is being implemented at the Dedicated Commuter Lanes. Over the past couple of months, more and more individuals are being denied the use of the DCL. These denials are a result of background checks that identify minor driving infractions on the records of these individuals. The Chamber understands and appreciates the need for national and bridge security. We are in no manner requesting that Customs and Border Protection relax its security enforcement. However, the zero tolerance policy could be refined and made more efficient. The fact that an individual received a speeding ticket 20 years ago does not make this individual a national security threat. To deny this individual the use of the DCL on the sole basis of a moving violation is improper. The Chamber wants those individuals kept out of the United States, who have a history of violent activities or represent a threat to national security kept. However, individuals who have simply committed minor driving infractions are generally not terrorists nor do they represent a threat to our community and Nation. By making this process more efficient, and a bit less stringent, ridership on the Dedicated Commuter Lanes will naturally increase.

Another related issue is the use of armed and uniformed officers being used to process the Dedicated Commuter Lanes Passes. These officers were trained and equipped to perform interrogations and inspections on the ports of entry. These officers were not trained as clerical assistants or data collectors. Consequently, the efficiency of the application process and the efficiency of entering background informa-

tion for the ports of entry are compromised. Customs and Border Protection should employ individuals that are trained in data input in an effort to speed up the application and verification process on the Dedicated Commuter Lanes and return the uniformed officers to the ports of entry. This single action will increase the number of officers available to perform inspections and/or to extend hours of operations.

In recent weeks, wait times have become such a problem that Congressman Silvestre Reyes has made this issue one of his primary concerns at the national level. The local community must also do its part and lend support. In order for the reduction of bridge wait times to be a success, the entire region must do its part to alleviate the long lines. Some of these steps are already being implemented. The city of El Paso has recently installed electrical signs near the ports of entry that announce the "live" wait times on the bridges and often redirects traffic to less congested bridges. Another step in the positive direction was taken recently when the hours of operation for the Dedicated Commuter Lanes were extended. The decision to expand the hours of operation to the DCL lanes stems from a trip to Washington, DC the Greater El Paso Chamber of Commerce and the Mayor's Office made last month. With the assistance of Congressman Silvestre Reyes, the Chamber was able to secure a meeting with Commissioner Basham of Customs and Border Protection. The Greater Chamber and the city voiced their concerns regarding the problems at the Ports of Entry and offered numerous local and immediate suggestions for improvements. Expanded service hours will be in place for at least 90 days on a trial period. Hopefully, the expanded hours will prove to increase ridership on the DCL and justify leaving the DCL open 24 hours.

Another easily implemented step that should strongly be considered is for the local radio and news stations to contribute to the process by assisting Customs and Border Protection in the rerouting of vehicular traffic. When there is a 3-hour wait at the Paso Del Norte Bridge, the local media could ask drivers crossing the ports of entry to utilize another bridge that may have only a 15- to 30-minute wait. Although it may seem an inconvenience for drivers to drive 45 minutes out of their way to access another bridge and wait in a 30-minute line at that bridge, the 1 hour and 15 minute-trip will still take less time than waiting in a 3-hour line at the Paso del Norte port of entry.

Technology is a huge part of the solution on our bridges. Customs and Border Protection must be supplied with technological infrastructure that will enable the officers on the bridges to inspect and process border crossers in a more efficient manner. Currently many individuals are being process manually by computers, this simply is not acceptable. Scanners and secure identification cards must be utilized. Any form of technological improvement on our bridges would be welcomed and supported by the Chamber.

The Chamber realizes that the regional office for Customs and Border Protection is currently experiencing financial and employee constraints. The Chamber's leadership is prepared to advocate on behalf of Customs and Border Protection at the Federal level for more funding and more Customs officers. We understand the current limitations; however, something must be done to improve the situation at our Ports of Entry. Idling vehicles due to the extended delays on the international bridges produce excessive emissions that are harmful to those that are exposed. We respectfully request that more lanes be opened, that more officers be stationed at the ports of entry, that commercial lane hours of operations be expanded to 24 hours, and that the security process be expedited through the acquisition of technological infrastructure improvements. The Greater El Paso Chamber of Commerce also supports House Resolution 4309 in its efforts to conduct Federal bridge wait time and economic impact studies.

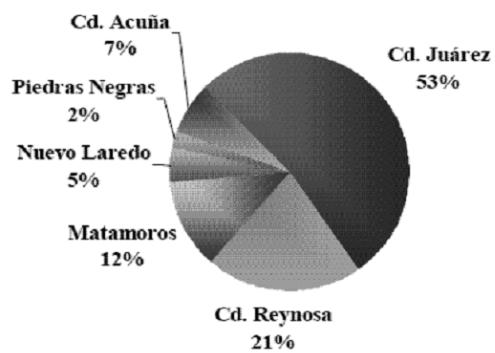
The Chamber realizes that a permanent solution to the problem will likely take some time to implement. In the meantime, the Chamber is willing to do its part to expedite and contribute to this process, including providing testimony for any all future committee hearings. Customs and Border Protection should do the same. We all want our bi-national metroplex to develop and prosper. However, we must provide people with a safe and viable alternative to sitting on the bridges for hours at a time waiting to cross.

The Chamber would like to thank the House Committee on Homeland Security for recognizing that the wait times at the ports of entry have become a problem and we thank the committee for their continuous involvement and participation in developing creative and innovative solutions.

## Exhibit A

## Share of Maquiladora Employment Along the Texas-Mexico Border

(January-October 2006 average)



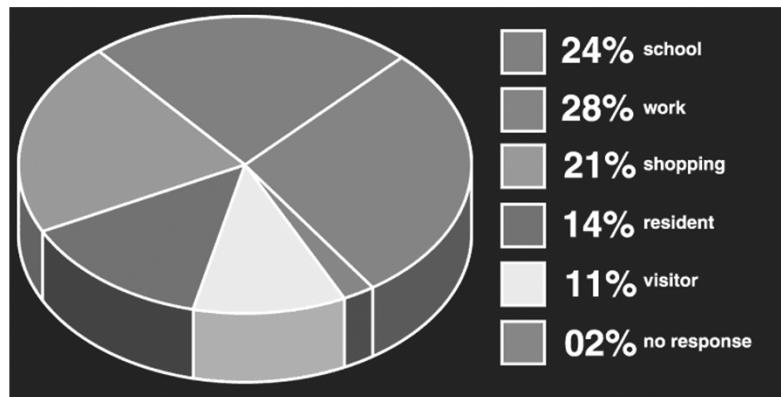
Source: INEGI; seasonal adjustments by FDB Dallas

## EXHIBIT B.—BORDER CROSSERS

|                   | 2002       | 2003       | 2004       | 2005       | 2006       |
|-------------------|------------|------------|------------|------------|------------|
| Private Vehicles: |            |            |            |            |            |
| Total .....       | 13,094,686 | 13,696,844 | 14,836,243 | 15,957,591 | 15,690,244 |
| Cargo-Trucks:     |            |            |            |            |            |
| Total .....       | 705,200    | 659,614    | 717,407    | 740,654    | 748,672    |
| Pedestrians:      |            |            |            |            |            |
| Total .....       | 9,300,683  | 8,898,741  | 8,441,293  | 7,638,801  | 7,508,247  |

Bridges Include: Paso Del Norte, Bridge of the Americas, Ysleta Bridge, Stanton St DCL, Ysleta DCL.

Exhibit C

**Northbound Crossing Trip Purpose****STATEMENT OF ELIOT SHAPLEIGH, TEXAS STATE SENATOR**

The massive and increasing congestion at U.S.-Mexico ports-of-entry not only threatens the local economies of the border region but also affects trade throughout the United States. A crossing that used to take 30 minutes now takes up to 3 hours. Increased wait times translate into fewer pedestrian and commercial crossings. This in turn leads to congestion, cost to products, services, and transportation, less tax revenue for border States, dangerous pollution, and a cost to our Nation's competitiveness as we compete in a world of "just-in-time" manufacturing. Increased wait times are not due to increased volume; to the contrary, the volume of goods moving across the border has decreased. Rather, U.S. border agents have stepped up scrutiny of Americans returning home from Mexico, slowing commerce and creating delays at our ports-of-entry that have not been experienced since the months following the 9/11 attacks without regard to mobility, commerce, and prosperity.

Our governments, State, local, and Federal need to value mobility as much as safety, commerce as much as security, and prosperity as much as enforcement because terrorists win if all we have is fear, congestion, and lines.

Of the \$332 billion in trade last year between the United States and Mexico, more than 80 percent entered Texas' ports-of-entry by truck. Mexico is our country's third-largest trading partner, and Texas' largest trading partner. Texas' exports to Mexico far exceed all trade with the European Union countries combined. El Paso, with its four international bridges, is the second-largest importer/exporter along the U.S.-Mexico border, after Laredo, Texas, accounting for nearly \$47 billion in trade last year. These imports and exports account for approximately 6 percent of the entire U.S. economy.

Employment and education are affected as well by the increased congestion at our border ports-of-entry. Our sister city, Ciudad Juarez, has 340 maquiladora plants, employing approximately a quarter of a million people, that require commercial transportation of manufactured good to the United States on a daily basis. More than 70 of these plants are Fortune 500 companies. About 3,400 maquiladora managers live in El Paso and commute to Juarez daily, and about 14,000 El Pasoans are employed in direct support of maquila operations. Each day, about 3,000 students cross the border from Mexico to attend the University of Texas at El Paso.

To date, the post-9/11 debate has focused too much on fences and the exclusion of undocumented people, and too little on creating policies that foster prosperity, mobility and secure trade to enhance economic growth not only in America but in the Americas. How do we expedite the movement of people and product safely, se-

curely, and smarter in a post-9/11 world? How do we create an immigration policy designed to produce jobs with security?

The short-term solutions to these challenges include issuing enhanced driver licenses, Freight Highway Administration Programs (FHWA) pilot programs at border ports-of-entry, and improved port management standards, in particular for pedestrian crossings. Mid-term solutions include accelerated bridge construction, and “one-stop” border inspection facilities. Last, long-term solutions include the adoption of the *Border 2020* concept of “Secure, Fast, Smart Movement of People and Product promoting 21st Century trade,” and a fair Migration Act of 2009.

#### SHORT-TERM SOLUTIONS

##### *Enhanced Driver Licenses*

On March 20, 2007, the State of Washington established the high-security driver’s license pilot program. U.S. Homeland Security Secretary Michael Chertoff formally approved the pilot program on March 23, 2007. Recently, an agreement was announced with the State of Arizona, according to comments made by Secretary Chertoff. All of the U.S.-Canadian border States are nearing agreement as well.

His endorsement of the enhanced driver license program comes as Border States prepare for new Federal security requirements mandating a passport for U.S. citizens who enter the country by land or sea. This requirement can take effect as early as January 1, 2008.

Given the negative impact that this requirement would have on commerce and tourism in Texas and particularly in the Border region, the Texas legislature passed S.B. 11 during the last legislative session which would authorize the Department of Public Safety to initiate a pilot program similar to the one enacted in Washington under which DPS would issue enhanced driver’s licenses for individuals who apply for one. The measure would allow DPS to adopt rules to implement the program and allows for the department to enter into a memorandum of understanding with any Federal agency for the purposes of facilitating the movement of people between Texas and Mexico.

Under the pilot program, the enhanced licenses will not be mandatory for drivers. Those who apply will go through an in-person interview, and proof of citizenship will be mandatory. The enhanced driver’s licenses will look much like a conventional driver’s license, but will also include proof of citizenship and other information that can easily be scanned at border ports-of-entry. Other advantages are that they cost less—at about \$40, the licenses will be less expensive than a \$97 passport—and will be available faster than passports, which usually take 6 to 8 weeks to process.

##### *Freight Highway Administration Programs (FHWA) Pilot Programs at Border Ports-of-Entry*

We need Congress and the Federal Government’s strong and immediate support for this key project. The El Paso County Secure Border Trade Demonstration Project, upon final approval, will be funded with Coordinated Border Infrastructure (CBI) funds administered by the Federal Highway Administration (FHWA) through the Texas Department of Transportation (TxDOT). El Paso County will implement the project with oversight from the U.S. Customs and Border Protection Agency (CBP) and Technology Monitoring Assistance from the Texas Transportation Institute (TTI) Center for International Intelligent Transportation Research in El Paso.

In September 2007, El Paso County was notified that FHWA will fund the Intelligent Transportation Systems (ITS) portion of the project assuming that an agreement to include a Technology Monitoring System for the project could be mutually agreed upon by CBP and El Paso County. El Paso County is currently working with CBP to finalize a memorandum of understanding between the two agencies, and anticipates a project implementation date in the third quarter of 2008.

The overall emphasis of the project is to heighten security and promote economic development and border trade efficiency by enhancing collaboration between maquiladoras, transporters and border security personnel. Specifically, the project will introduce new electronic tracking and reporting and monitoring technology that will expand the capabilities of the private sector to monitor the loading of trucks and track the movement of goods and operation of vehicles, from origin to destination, as well as to electronically verify the identity of drivers and other participants in the cross-border supply chain in real time.

Among the project objectives, is to provide the opportunity to extend the monitoring of vehicles and cargo away from the border by providing more information across the entire supply chain providing software-enhanced analysis of data. Specifically, the Secure Border Trade Demonstration Project consists of the following components:

- A. Equip three designated "secure" maquiladora sites with monitoring devices (real-time video cameras and communications, etc.) and establish procedures and protocols for the manufacture and loading of goods at each site.
- B. Equip thirty (30) designated heavy-duty tractors and trailers with electronic "Bulldog" or similar locking systems that will be continually monitored for tampering as well as equipping the same trucks with GPS tracking and real-time voice communication and operations equipment. These systems will allow each vehicle to be tracked along a designated route from the moment the door is closed and it leaves the secure sites in Mexico until such time as it arrives at the border and then again until it reaches its destination in the United States or vice versa.
- C. Equip one (1) central monitoring facility (selected by participants) with the software and technology sufficient to monitor all vehicles and facets of the supply chain from goods production and loading, to transport, to border crossing and onto its destination. The focus of the information gathered and analyzed at this site is to provide a more transparent and comprehensive vision of selected border activities and crossings.

El Paso County and the TTI Center for International Intelligent Transportation Research, along with the project contractors (once selected), will develop and implement monitoring protocols and procedures and will communicate with public and private sector participants to enhance the effectiveness of the effort. An iterative process will be established with CBP to allow for adjustments in the program as required and to better focus on issues as they arise.

It is important to note that this project has been designed to work with and potentially enhance current CBP programs including C-TPAT, FAST and ACE in the future. However, the Secure Border Trade Demonstration Project's initial focus is to provide additional updated real-time information by monitoring additional aspects of the supply chain away from the border not currently under surveillance by CBP or industry.

While the Secure Border Trade Project currently focuses on expanding supply chain visibility and developing secure manufacturing facilities, substantial future opportunities exist to expand the project into additional areas which further benefit both maquilas and fleet operators. Specifically, through deployment of clean fuel vehicle technologies (primarily natural gas or hybrid engines), cost savings of up to \$1.25-plus per diesel gallon can be realized. In addition to the immediate economic savings for fleet vehicle operators, utilization of clean fuel technologies benefit the bi-national community by substantially reducing diesel related vehicle emissions.

#### *Improved Port Management Standards*

In the 21st century Texas economy, the border will be recognized as the State's greatest geographically manifested asset. Sealing the border and denying Texans access to this resource would have the same impact this century's State economy as capping the oil wells would have had in the last. The United States shares 2,000 miles of border with Mexico, of which 1,254 miles are along the Texas border. Of the 309 official ports of entry (POE) in the United States, 166 of these are land POE's. The southern border's 43 POE's contain 86 pedestrian lanes, 216 lanes for personally owned vehicles (POVs) and 70 lanes for cargo carrying vehicles. In Texas, 23 international crossings serve as overland ports-of-entry for trade with Mexico. Two of the fastest-growing metropolitan areas of the country are the Texas border cities of Laredo and McAllen. There are multiple facets to border transportation activity which are typically divided into Commercial Truck, Personally Owned Vehicle (POV) and Pedestrian Crossings.

One common assumption is that commercial truck crossings alone constitute international trade. In fact, personal vehicle and pedestrian crossings are integral to international trade and often have a greater impact on the Texas economy than commercial crossings. This is especially true in border cities but not exclusively. For example it is estimated that almost 10 percent of shoppers at Rivercenter Mall in San Antonio made the trip directly from Mexico. For reasons such as these, congestion and delays at the border for commercial or personal vehicles can severely hurt the Texas economy. Delays also hurt those seeking to visit friends and family and the thousands of children who cross the border to attend school every day in the United States.

Homeland security and improved trade processes are not mutually exclusive and can be accomplished simultaneously. To accomplish both, existing or new pre-screening programs should be considered to allow the Federal and State governments' to have advance knowledge of the people, freight, and vehicles crossing our borders. To be able to identify, in advance, the overwhelming majority of the individuals who cross the border as law-abiding and low-risk crossers, innovative technology with

precise filtering devices can be used so that law enforcement personnel can focus on high-risk movement. Improving the capacity of border inspection agencies to validate legitimate cross-border pedestrians should be the basis for implementing new models of risk management.

The high volume of persons and vehicles crossing the border may make the implementation of new technology appear daunting. However, it is not as difficult a task as it might appear. Aggregate border crossing numbers are somewhat misleading since so many of the vehicles, drivers, and pedestrians are local, frequent travelers. For example, the 4.2 million recorded commercial vehicle southwest border crossings in 2000 were made by only 80,000 trucks. If even one-half of these trucks, or 40,000 were found eligible for low-risk crossing, it is conceivable that Federal and State workloads would decline significantly, representing ongoing annual savings after an initial investment.

To address these issues and expedite the use of new technologies at border ports-of-entry, the following priorities for implementing a U.S.-Mexico "Smart Border Plan" should be addressed.

#### STEPS TO SECURE FLOW OF PEOPLE

- Develop common biometric identifiers in documentation such as permanent resident cards, NEXUS, and other travel documents to ensure greater security. Use innovative technology to develop and deploy a commuter or secure identity card for permanent residents that includes a biometric identifier to allow for the timely determination of legitimate crossers.
- Support pilot programs to experiment with prototypes for low-risk travelers, such as Dedicated Commuter Lanes (DCLs), and frequent traveler cards for U.S. citizens. The concept of "Frequent Traveler Cards" is an example of ways that technology at ports-of-entry can be used to expedite the inspection process. Biometrics can be embedded in the card, such as a digitized photograph, handprints, or facial or retina recognition that will verify the individual's identity.
- *Pre-Cleared Travelers*.—Expand the use of the Secure Electronic Network for Traveler's Rapid Inspection (SENTRI) dedicated commuter lanes at high-volume ports-of-entry along the U.S.-Mexico border.
- *Advanced Passenger Information*.—Establish a joint advance passenger information exchange mechanism for flights between Mexico and the United States and other relevant flights.
- *Visa Policy Consultations*.—Continue frequent consultations on visa policies and visa screening procedures. Share information from respective consular databases.
- *Joint Training*.—Conduct joint training in the areas of investigation and document analysis to enhance abilities to detect fraudulent documents and break up alien smuggling rings.
- *Compatible Databases*.—Develop systems for exchanging information and sharing intelligence.
- *Screening of Third-Country Nationals*.—Enhance cooperative efforts to detect, screen, and take appropriate measures to deal with potentially dangerous third-country nationals, taking into consideration the threats they may represent to security.

#### STEPS TO SECURE FLOW OF GOODS

- *Public/Private Sector Cooperation*.—Expand partnerships with private sector trade groups and importers/exporters to increase security and compliance of commercial shipments, while expediting clearance processes.
- *Electronic Exchange of Information*.—Continue to develop and implement joint mechanisms for the rapid exchange of customs data.
- *Secure In-Transit Shipments*.—Continue to develop a joint-in-transit shipment tracking mechanism and implement the Container Security Initiative. In this new system, all containers brought into the United States would have to be registered 24 hours before their arrival and pre-screened for suspicious content.
- *Technology Sharing*.—Develop a technology sharing program to allow deployment of high technology monitoring devices such as electronic seals and license plate readers.
- *Secure Railways*.—Continue to develop a joint rail imaging initiative at all rail crossing locations on the U.S.-Mexico border.
- *Combating Fraud*.—Expand the ongoing Bilateral Customs Fraud Task Force initiative to further joint investigative activities.

- *Contraband Interdiction*.—Continue joint efforts to combat contraband, including illegal drugs, drug proceeds, firearms, and other dangerous materials, and to prevent money laundering.

#### MID-TERM SOLUTIONS

Port-of-entry along the southern border and the transportation systems associated with them were not designed to handle the types of security protocols the U.S. Government is imposing in the post-9/11 world. One answer is to invest in new ports-of-entry and improve existing ones. However, this is not happening fast enough. For example, the last new port-of-entry to be built along the southern border was in Laredo, Texas, in 2000. The next one, due to open in 2009, will be in San Luis, in Yuma County, Arizona. Last year, the U.S. Government spent \$96 million on its land ports, with half of that amount earmarked for the new facility in Arizona. Next year, the Government has committed \$345 million. To show how insignificant a figure that is, consider that a new international bridge at San Ysidro, in San Diego, California, is slated to cost \$550–\$660 million. Another problem is that the Federal Government requires the General Services Administration to capitalize a new project in 1 year.

On both sides of the U.S.-Mexico Border, the sheer volume of commercial vehicles has overwhelmed Government agencies charged with inspections and exacerbated inefficiencies in outdated inspection processes. In its December 2001 border transportation report, the General Accounting Office (GAO) found that five primary factors contribute to northbound congestion at the border:

1. Multiple inspection requirements;
2. Staffing and human resources problems;
3. Limited use of automated management information systems for processing commercial traffic;
4. Insufficient roads connecting ports-of-entry; and,
5. Limited coordination and planning among U.S. inspection agencies and between the United States and Mexico.

The GAO report noted that the lack of coordination among agencies within countries, as well as between countries, stands in the way of reducing shippers' transaction costs. Depending on the type of load, commercial vehicles have to pass through customs, agriculture, drug, immigration and safety inspections. Further, with 50 to 100 percent increases in commercial vehicle traffic between 1994 and 2001, Government funding for additional staff and facilities had fallen behind. Despite new "intelligent transportation" technologies that could drastically reduce processing times, Federal agencies had been slow to incorporate these technologies, and most processing is still paper-based. The bottom line was that the cumbersome processing of northbound shipments could be improved by better cooperation among U.S. Government agencies and greater use of available technology.

The growth of RFID use in the border inspection process has the potential to reduce paperwork and eventually improve border crossing times, however it also puts an even higher premium on ensuring that the border is staffed with officers well-trained in the proper uses of these new technologies. Furthermore, some policy-makers may believe that the addition of new technologies can substitute for investments in traditional infrastructure, however this is clearly not the case. In 2003 the Data Management Improvement Act Task Force concluded that 70 percent of the 166 land ports of entry had inadequate infrastructure. Of these:

- 64 ports have less than 25 percent of required space;
- 40 ports have between 25 and 50 percent of required space; and,
- 13 ports have between 50 and 75 percent of required space.

These alarming statistics show that the problems at the border are not something that can be tweaked or easily corrected. Rather, they require a long-term program of sustained and strategic investments.

#### OTHER STEPS TO SECURE INFRASTRUCTURE

- *Long-term Planning*.—Develop and implement a long-term strategic plan that ensures a coordinated physical and technological infrastructure that keeps peace with growing cross-border traffic.
- *Relief of Bottlenecks*.—Develop a prioritized list of infrastructure projects and take immediate action to relieve bottlenecks.
- *Infrastructure Protection*.—Conduct vulnerability assessments of trans-border infrastructure and communications and transportation networks to identify and take required protective measures.

- *Harmonize Ports of Entry Operations.*—Synchronize hours of operation, infrastructure improvements, and traffic flow management at adjoining ports-of-entry on both sides of the U.S.-Mexico border.
- *Demonstration Projects.*—Establish prototype smart port-of-entry operations.
- *Cross-Border Cooperation.*—Revitalize existing bilateral coordination mechanisms at the local, State, and Federal levels with a specific focus on operations at border crossing points.
- *Financing Projects at the Border.*—Explore joint financing mechanism to meet essential development and infrastructure needs.

#### *“One-Stop” Border Inspection Facilities*

A “Smart Border” bi-national trade system uses technology to help streamline the passage of low-risk goods and people into the United States. At the same time, the system seeks to prevent dangerous or illicit goods from entering the country. To that extent, smart border innovations have been in progress for some time.

To cope with NAFTA’s strain on border infrastructure and to expedite the flow of commerce at our ports of entry, the Texas Legislature passed S.B. 913 in the 76th Legislative Session to require the Texas Department of Transportation (TXDOT) to build one-stop border inspection stations in the cities that have experienced the greatest increase in commercial traffic, Laredo, El Paso, and Brownsville.

S.B. 913 has five goals: (1) To facilitate the flow of commerce; (2) improve Federal efforts aimed at interdiction; (3) protect our public health; (4) conserve our environment by decreasing the idling time of commercial vehicles; and (5) protect our already severely overburdened highways along the border by preventing overweight trucks from traveling on Texas’ roads.

In response to the passage of S.B. 913, former Texas Secretary of State Elton Bomer, working in conjunction with TxDOT, directed the Center for Transportation Research (CTR) of the University of Texas at Austin and the Texas Transportation Institute (TTI) of the Texas A&M University System to examine the feasibility of an expedited border process that would facilitate trade while permitting Federal and State agencies to maintain their inspection responsibilities. In addition, CTR and TTI were directed to determine the potential to enhance security through improved automation and screening. The final product envisioned was the “one-stop” border inspection facility prototype. The one-stop model can be viewed at: [www.bordercross.tamu.edu](http://www.bordercross.tamu.edu).

Co-locating the myriad State and Federal agencies with inspection and regulatory responsibilities at the border and integrating the various processes into one streamlined and cohesive approach is critical if we are to succeed in expediting U.S.-Mexico overland trade. For example, using devices that enable communication from electronic container seals to a PDA Network will improve security and facilitate trade by incorporating the processing of commercial vehicles, rail freight and crews, and addressing inland pre-clearance/post-clearance, international zones, and pre-processing centers at the border. Creating this standardized platform is achievable, but will require strong direction from our State and the Federal Government.

#### *The Role of RFID Technology*

The “one-stop” border inspection facility would combine the use of a Radio Frequency Identification (RFID) system, which transmits data back and forth from truck to border processing agent. RFID is a Federal Government information technology initiative to implement an integrated, Government-wide system for the electronic collection, use, and dissemination of international trade data. It will reduce burdens for the trade community and the Government by eliminating duplicative information requirements and the collection of excessive data. The initiative will also improve enforcement of and compliance with Government trade requirements. RFID promises to create a Government that works better and costs less by:

1. Reducing the cost and burden of processing international trade transactions for both the private trade community and the Government;
2. Improving the enforcement of and compliance with Government trade requirements such as public health, safety, and export control; and
3. Providing access to international trade data and information that are more accurate, thorough, and timely.

By digitizing the paper trail, the system promises to significantly reduce delays without compromising the objectives of U.S. law enforcement and other Government agencies involved in the regulation of commerce. By providing users “dedicated trade lanes” in the “one-stop” border inspection facility, it will ensure expedited clearance and passage in approximately 12 minutes. According to researchers and Mexican government officials, technological and other innovations, such as an automated clearance system requiring carriers to provide documentation electronically

would also encourage the development of cross-border trucking beyond the commercial zones by reducing the need for time-consuming paperwork reviews at the border.<sup>1</sup>

The key to implementing the “one-stop” border inspection facility is to bring cost-effective technology into the process. In particular, Texas must focus and expand the use of RFID. Presently, U.S. Customs will not share RFID with other law enforcement groups as they claim that it is a proprietary technology and can not be shared. Thus, the only option available for local law enforcement groups stationed at ports-of-entry is to purchase their own form of technology. From a public policy perspective of saving precious and few resources, duplication should always be avoided, especially when technology is already available. In Texas, DPS officials at the border inspect trucks for safety concerns. If they had access to driver and truck safety data, they could determine in advance if approaching trucks need inspection. Ideally, the RFID transponders would be linked to the Federal Motor Carrier Safety Administration’s query central information system, providing DPS officials with this information.

RFID technology will not only improve inspection and enforcement, but will also speed the flow of commerce. The use of transponders, weigh-in-motion scales, existing Federal and State agency databases, and Internet connectivity will also expedite trade in Texas. RFID technology must also be incorporated as a key part of the physical design and layout of each “one-stop” border inspection facility. In addition, the implementation of the “one-stop” should include provisions for co-location of all Federal and State agencies with responsibilities at our ports-of-entry and include key Mexican counterparts through “virtual” connectivity.

Immediate action is necessary to head off congestion that is choking trade, increasing product cost, and adversely impacting the quality of life at our key ports-of-entry. The need, the will, the funding and the technology exist now to make the “one-stop” a reality. When Texas-Mexico trade increases, the entire State will benefit.

#### LONG-TERM SOLUTIONS

##### *Secure Manufacturing Zones*

The objective of a Secure Manufacturing Zone (SMZ) concept is to develop secure and efficient manufacturing zones that enhance the security and efficiency of the border and the manufacturing supply chain. The importance of the SMZ is that it would establish a specific location at which inspections and clearance can occur away from the border. These specifically sanctioned zones would operate under current, and as required, new industrial standards and operating protocols (ISOs). The result will allow the monitored placement of goods into secure authorized vehicles for transport to specified destinations on the other side of the border. The effect of the SMZ will move activities and functions that have previously occurred at the border to the manufacturing facility or other designated sites. This process is known as “Point of Origin Clearance.”

##### *Point of Origin Clearance—Moving the Border to the Plant*

The maquiladora industry represents the largest component of trade between the United States and Mexico. The maquiladora industry and the local economies along the border cannot afford to have inefficient inspection processes impede these vital flows of trade. The key to creating SMZ along the border and enhancing the efficiency of Federal inspection facilities is to bring cost-effective technology into the process. Point-of-origin clearance is a concept developed by border trade professionals offering a multiple value proposition: predictable trade for industry, secure trade for Government, and environmental innovation that benefits the quality of life of the border region. By securing the manufacturing supply chain, this concept serves the industry-Government partnership essential to border security and homeland security.

Point-of-origin clearance is a concept that responds to two significant issues impacting the economy of the United States-Mexico border. The first is the “just-in-time” manufacturing and shipment of goods. To be competitive in the modern global economy border operations must be responsive to the needs of those engaged in international trade and industry sectors that are increasingly dependent on the “just-in-time” model. Thus, it is critical that these needs be protected in a post-September 11, 2001 environment. The second issue is the fact that the SMZ and point

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<sup>1</sup> U.S. General Accounting Office, *North American Free Trade Agreement: Coordinate Operational Plan Needed to Ensure Mexican Trucks’ Compliance With U.S. Standards Report* (Washington, DC, December 2001), p. 3. online. Available: <http://www.gao.gov>.

of origin clearance can provide effective inspection and oversight to protect the citizens of the hemisphere from the movement of illegal or dangerous materials across the border. Point-of-origin clearance offers intelligent monitoring and protection of the United States-Mexico border and its vital cross-border conveyances while concurrently facilitating the needs of cross-continental and global trade flows. By applying innovative and proven integrated technologies, SMZ provide a starting point for a secure and totally transparent supply chain.

This point-of-origin issue is of such overriding importance that the U.S. Senate Permanent Subcommittee on Investigations has released two reports compiled by the Government Accountability Office (GAO) from its investigation of key Homeland Security cargo security programs administered by United States Customs and Border Protection. The two reports are: (1) Container Security Initiative (CSI); and (2) Customs-Trade Partnership Against Terrorism (C-TPAT). These reports were initiated to determine just how many containers crossing United States borders were in fact being inspected, the types of inspections conducted and where such inspections occurred.

The report identified weaknesses in cargo inspections that include the following:

- a. Only a low percentage of all of the containers passing through our ports are inspected overseas;
- b. Only a low percentage of high-risk cargo is inspected overseas;
- c. That the inspections (overseas) utilized untested nuclear detection devices and non-intrusive inspection machines;
- d. Importers who own and operate the entire supply chain route from start to finish suffer fewer security breaches than others because they have greater control over their supply chains;
- e. Relatively few importers own and operate all key aspects of the cargo container transportation process, relying instead on second parties to move containerized cargo and prepare various transportation documents; and,
- f. As a result, a security gap exists. Certified C-TPAT importers benefit from fewer inspections, despite inadequate validation of their supply chain security.

#### *Hemispheric Security and Secure Manufacturing Zones*

The creation of SMZ also creates an opportunity to refocus both the perception and function of border communities from merely crossing points or places where companies can achieve lower manufacturing costs, to places that can produce high-value goods central to the security of the hemisphere—in other words, Hemispheric Security Zones (HSZ).

In the simplest terms, the basic premise behind a Hemispheric Security Zone concept is that regardless of the ostensible lower costs of offshore manufacturing (such as China), there are certain materials and products that affect the security of our Nation and the hemisphere in such a profound way that we do not wish to have them manufactured or processed on other continents. Utilizing and expanding the SMZ proposed here, industries central to the strategic security of the hemisphere could be focused on the United States-Mexico border region, thus taking advantage of a younger and increasingly higher-skilled work force, while maintaining a level of security that will satisfy the defense establishment and other interests. Secure Manufacturing Zones also complement the trend toward border-based value-added manufacturing and innovation.

The creation of a SMZ concept will require the development of a new set of industrial operating standards (ISO 25,000). If implemented along the border, these new security standards will provide an inherent competitive advantage for border regions and allow them to attract industries from areas where cost structures are higher and security standards are lower. For example, if the United States wished to avail itself of the secure economic advantages of border production, it could move the manufacturing of bullet resistant Kevlar vests to a secure facility just over the border, without compromising its ability to obtain the quick delivery of vests or exporting a technology that North American security interests did not want in the hands of less secure, distant facilities. Therefore such industrial operating standards can help, maintaining not only manufacturing security, but also supply chain visibility from the manufacturing plant to the point of use process that cannot be matched by other domestic or international manufacturers.

Existing Federal programs administered by the U.S. Department of Homeland Security permits qualified businesses to voluntarily participate under the Customs-Trade Partnership Against Terrorism (C-TPAT)—a public/private partnership program aimed providing security and facilitation of commercial supply chain at U.S. land, air and sea ports of entry. Participating businesses provide U.S. Customs and Border Protection (CBP) a security profile outlining the specific security measures and addresses a broad range of security topics including personnel security; physical

security; procedural security; access controls; education training and awareness; manifest procedures; conveyance security; threat awareness; document processing; business partners and relationships; vendors; and suppliers. Security profiles also list actions plans the companies implement to align security throughout the supply chain.

While CBP, through the implementation of the C-TPAT and the SAFE programs, has made progress in securing and expediting commercial cargo at land ports of entries along the U.S.-Mexico border since the 9/11 terrorist attacks, more needs to be done. A May 2005 General Accounting Office (GAO) study found key cargo security programs, including C-TPAT, needed to be improved. Specifically, the study found that CBP had validated only 11 percent of C-TPAT members (as of April 2005); had not developed a comprehensive set of performance measures for the program; and that key program decisions were not always documented and programmatic information not updated regularly or accurately. Moreover, commercial traffic congestion at border land ports of entry continues to be a significant problem, causing delays and economic impacts for cross-border businesses, particularly those involved in “just-in-time” markets.

One way to encourage investments in cargo supply chain security and efficiency processes to promote the development of Secure Manufacturing Zones along the U.S.-Mexico border region is by complementing Federal programs aimed at enhancing security and safety of cross-border shipment of goods by providing eligible businesses within border States with tax incentives for investments aimed at enhancing the supply chain visibility of their operations; value-added trade; and efficient operations.

#### FAIR AND COMPREHENSIVE IMMIGRATION ACT OF 2009

John F. Kennedy once said: “Our attitude toward immigration reflects our faith in the American ideal. We have always believed it possible for men and women who start at the bottom to rise as far as their talent and energy allow. Neither race nor place of birth should affect their chances.”

This is not to say the American public is of one mind on the subject of immigration, and many Americans have been influenced by the persistent and negative perceptions of immigrants painted for them by lawmakers. Yet, a majority of Americans continue to favor more inclusive solutions to the challenges brought by immigration. A review of polls by the Pew Hispanic Center, conducted between February 8 and May 14, 2006 found that:

- “A majority of Americans believes that illegal immigrants are taking jobs Americans do not want.”
- “A majority of Americans appears to favor measures that would allow illegal immigrants currently in the U.S. to remain in the country either as permanent residents and eventual citizens or as temporary workers who will have to go home eventually. When those options are presented, only a minority favors deporting all illegal migrants or otherwise forcing them to go home.”

In general, Americans understand that increased globalization not only boosts the movement of goods and capital across borders, but also the movement of people in search of the jobs created by globalization. Americans also appear to understand how much their lifestyle is dependent on the cheap labor of immigrants. Finally, Americans recognize the value of legalizing the hard-working immigrants who already contribute in so many ways to our economy, by bringing them out of the shadows so they can reach their full potential and, in turn, enable America to reach its full potential.

Almost all experts agree our economy needs immigrant labor for the emerging technology, construction, service, and agriculture jobs of the future. In response, Congress must pass fair and comprehensive immigration policies that meet basic economic need of 21st century America. Specifically, we need a fair and comprehensive Federal immigration act that:

- Balances border security concerns with recognition of the U.S. demand for workers in the numerous sector of the U.S. labor force, including agriculture, construction, and the service economy;
- Offers a path to citizenship, under clearly defined guidelines, to immigrants who have demonstrated citizenship, paid taxes, and birthed children and grandchildren;
- Creates a temporary worker program that allows employers to sponsor low-skilled immigrant workers to obtain a permanent residence status. Undocumented students under the age of 21 should be able to satisfy the requirements under such a program by attending an institution of higher education or a secondary school full-time;

- Provides a larger number of employment and family-based green cards to promote family unification and reduce backlogs in application processing; and,
- Provides initiatives aimed at promoting investment and economic opportunities of migrant sending regions in Mexico, such as the U.S.-Mexico Partnership for Prosperity and Mexico's 3-for-1 program that encourages the use of remittances to build local infrastructure and economic development in Mexico.

In conclusion, any changes proposed at our ports-of-entry must take into account that the vast majority of people and goods cross the border for legitimate purposes. We need Congress to demonstrate strong leadership to ensure that our efforts to increase national security must be made alongside equal efforts to enhance trade. Open markets, trade, and cooperative bi-national relationships, not long lines, impaired trade, and isolationism are what terrorists fear most. We need your leadership now.

The terrorist attacks of September 11, 2001, have significantly increased congestion along Texas trade corridors, compounded by the increased suspicion and fear of outsiders. With no reliable means to filter illicit cross-border activity from the legitimate exchange of goods and people, the response after the World Trade Center attacks has been to effectively clamp the bi-national transportation arteries. This may have been a prudent response to the increased fear of international terrorism, but the effect was to place a choke-hold on our cross-border economies. In El Paso, with 62 million legal crossings each year, the increased congestion has imposed an enormous strain on an already over-burdened infrastructure.

The country is now in the process of rethinking its international ports-of-entry in new terms—with national security added to the mix of law enforcement and regulatory issues. While achieving adequate security is a crucial issue along the border, new security policies must not transform the U.S.-Mexico border into a “security fence” or a highly fortified physical barrier that impedes the legitimate flow of commerce and people. Because our Nation’s ports-of-entry face these new challenges, effective regulation at our borders will require the coordination of State and national resources, as well as international cooperation.

Our country’s focus on safeguarding our people from further barbaric acts of terrorism is appropriate. This new war on terrorism must not undermine our confidence or dictate our destiny, but rather must be integrated into our Nation’s vision for expeditious and enhanced trade. If we allow congestion at border ports-of-entry to obstruct free trade with our second-largest trading partner, the terrorists will have won. With the words “The only thing we have to fear is fear itself,” Franklin Delano Roosevelt moved a whole Nation to test the character of its people in a time of uncertainty and trouble. We too must do the same. If we don’t, ultimately, trade will move to other competitors eager to take advantage of an economy governed by fear.

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STATEMENT OF DAN STAMPER, PRESIDENT, DETROIT INTERNATIONAL BRIDGE COMPANY, DETROIT, MICHIGAN

DECEMBER 15, 2007

Mr. Chairman, I am Dan Stamper, President of the Detroit International Bridge Company/Canadian Transit Company in Detroit, Michigan—commonly known as the Ambassador Bridge—and I am honored to have this opportunity to offer this testimony at your important field hearing in El Paso, Texas. I congratulate you and especially the distinguished committee Member, Representative Sylvestre Reyes, for focusing the committee’s attention on the matter of “Ensuring Homeland Security While Facilitating Legitimate Travel: The Challenge at America’s Ports of Entry”. There may be no more important international security or trade issue facing our Nation than the one you will be discussing with your distinguished line up of witnesses today.

As the primary officials responsible for all operations and activities at the Ambassador Bridge between Windsor, Ontario and Detroit, Michigan, the issues that are the focal point of this hearing are ones that I live with every day, 365 days a year. The purpose of my testimony today is to share with the committee some of the innovative initiatives that we have taken at the Ambassador Bridge to streamline traffic flow of commercial and vehicular traffic between Canada and Detroit, while maintaining a close working partnership with Federal inspection agencies to help ensure that the bridge is secure and those crossing it fully comply with all laws on both sides of the border. We believe that we have some unique, private sector-based perspectives that hopefully can be applied at the southwest border ports of entry, including your vital bridges between El Paso and Ciudad Juarez.

I am particularly pleased to be presenting testimony at a hearing where one of your primary witnesses will be Ms. Lurita Doan, administrator of the General Services Administration. The administrator has been to the Ambassador Bridge to see how we operate our border crossing and has been very supportive of the private sector approaches and collaboration we have taken with GSA, the Federal inspection agencies, and law enforcement. We have also hosted visits to the Ambassador Bridge by former Secretary of Homeland Security, Thomas Ridge, and the current Secretary for Homeland Security, Michael Chertoff. In addition, both have been very generous with their praise of the Ambassador Bridge and how it has responded to the increased threat of terrorism to the northern border ports of entry. In September 2002, President Bush and then Canadian Prime Minister Jean Creti n, with the Ambassador Bridge as their backdrop, jointly announced the Free and Secure Trade (FAST) initiative which has improved efficiency and border security. We are proud of our reputation as perhaps the most efficient and secure port of entry in the Nation.

**HISTORY OF THE AMBASSADOR BRIDGE: THE BUSIEST COMMERCIAL BORDER CROSSING  
IN THE UNITED STATES**

The Ambassador Bridge connects Windsor, Ontario and Detroit Michigan and is owned by the Detroit International Bridge Company (DIBC), a wholly owned subsidiary of their parent company, CenTra Inc. CenTra is a diversified transportation/economic development corporation with holdings throughout North America. Centered in the transportation industry, these holdings include trucking companies, air freight, a short-line railroad, warehousing, logistics, customs brokerage, insurance and truck pre-processing centers which help thousands of truck drivers clear the border process safely and efficiently.

As North America's busiest border crossing, the Ambassador Bridge was built in 1927, and handles 25 percent of all the trade between Canada and the United States. More than \$1 billion worth of trade crosses the Ambassador Bridge everyday. In 1995, the Ambassador Bridge surpassed the Peace Bridge (in Buffalo, NY) as the No. 1 commercial crossing in North America. Today, the Ambassador Bridge handles more than double the commercial traffic as the Peace Bridge and almost twice as much as Laredo/Nuevo. This incredible facilitation of traffic was realized through the bridge company's tremendous vision and timely infrastructure investments supporting the Canada/U.S. Free Trade Agreement and the NAFTA which created a very prosperous environment for the entire region.

Since 1992, DIBC has invested millions of after-tax dollars in property acquisitions and new infrastructure in order to ensure the ability to improve our facility by adding additional infrastructure at the appropriate time. These improvements include, but are not limited to:

- Created additional entrances and exits to the Ambassador Bridge in the early 1990's;
- Built a dedicated commercial vehicle-only ramp off the bridge allowing for the efficient separation of truck and car traffic prior to the inspection lanes and more than doubling the size of our U.S. Customs secondary parking facility in 1992;
- Built a new Canada Customs plaza and administration building more than doubling throughput capacity in 1994;
- Opened new duty-free store in Canada in 1995 with traveler amenities;
- More than doubled the size of our Canada Customs secondary parking facility in 1995;
- Re-located entire toll operation to the U.S. plaza in 2002 freeing up much-needed plaza space in Canada for traffic management purposes;
- Removed the old Canada Customs administration building allowing for better traffic flow on the Canadian plaza in 1999.

And, since the terrible attacks of 9/11:

- Added 7 additional Customs booths in the United States and 9 additional Customs booths including a new dedicated ramp to them in Canada to eliminate truck inspection delay time;
- Reconfigured U.S. Customs secondary inspection facilities to accommodate radiation portals, license plate readers, stationary cargo X-ray devices (and other security technology) as well as absorbing additional staff;
- Established new Advanced Border Processing Centers (ABpC) in advance of the border to assist trucks, drivers and cargo in complying with new "E-Manifest" and pre-notification requirements. ABpC has reduced wait times for paperwork delays by 90 percent at secondary Customs processing for commercial vehicles;

- Embraced and built dedicated NEXUS lanes for pre-cleared passenger vehicles, eliminating delays for frequent border users.

MR. CHAIRMAN, The Ambassador Bridge established a security department on 9/11 with the sole purpose of protecting the bridge structure. Private armed security forces were put in place 24 hours per day, 7 days a week in both the United States and Canada and continue today at the Ambassador Bridge's direction and expense.

The Ambassador Bridge is also working today, in partnership with the Federal Highway Administration (FHWA) and the Michigan Department of Transportation (MDOT) on the Ambassador Bridge Gateway Project in the United States. This project is a \$220 million investment that will accomplish better traffic flow and fewer delays by directly connecting the three major highways in Detroit to our plaza and is scheduled for completion in 2009. This will also allow us to further expand our throughput capabilities on our plaza and ensure that international trucks never again will have to use local city streets.

Furthermore, DIBC is in the process of building a state-of-the-art cable stay bridge to replace the existing almost 80-year-old Ambassador. This six-lane span will ensure that international traffic will experience fewer and fewer delays and offer back up redundancy as we will also be retrofitting and rehabbing the current bridge to use as back up in case of emergencies. We are currently progressing through the Environmental Assessment (EA) process and our goal is to have our new \$1 billion crossing open for use in 2010.

Finally, MR. CHAIRMAN, the DIBC and its parent company have made special efforts to establish more friendly and cooperative relationships with many groups on both sides of the border. DIBC is a member of the International Bridge, Tunnel & Turnpike Association; the Association of International Border Agencies; THE BORDER TRADE ALLIANCE; the Metropolitan Affairs Coalition; the Detroit Economic Growth Corporation; Detroit Regional Chamber and the U.S. Chamber of Commerce.

PROPOSAL FOR ENHANCING OPERATIONS OF EL PASO, TEXAS BORDER PORTS OF ENTRY:  
ENGAGE THE PRIVATE SECTOR

MR. CHAIRMAN, it would be presumptuous to state before this committee that everything that has worked so well at The Ambassador Bridge will work perfectly for enhancing traffic flows and maintaining tight security here in El Paso. However, after examining traffic flow data on the El Paso bridges and meeting with the Mayor, business leaders and leaders from Ciudad Juarez, I remain convinced that the primary approach to both enhancing security at the ports of entry and facilitating the flow of trade and other commercial traffic, is to fully engage the private sector in a "true" public-private partnership for bridge/crossing operations, maintenance and support.

Perhaps the one constant among our initiatives that we have taken to sustain successful operations at the Ambassador Bridge, is our on-going vigorous engagement with both the Federal inspection agencies and the General Services Administration (GSA). Let me quickly say that our relationships have not always been harmonious, nor did we always find a willing Federal sector to "think outside of the box" in addressing infrastructure, personnel, and technology changes at the busiest international crossing in the United States. To the contrary, there have been times when we have had to work with our Members of Congress, trade associations, and use good old-fashioned "jaw boning" in order to convince a doubting GSA and other agencies, that there were effective "private sector" approaches that could improve traffic flows while bolstering security. However, in the end, the DIBC has been able to convince both the Department of Homeland Security and GSA, that private sector options in terms of infrastructure improvement, coordination of inspection facilities, and negotiation of "times of operation" that there are major benefits for all parties.

MR. CHAIRMAN, by putting up our own private funds to construct new inspection booths for the DHS, in accordance with their specifications, we have dramatically accelerated the availability of such facilities as compared to the long, drawn-out process of waiting for the GSA and the Office of Management and Budget to approve appropriated funds for such facilities. We have improved the ability of the inspection agencies to fulfill their mission by expeditiously building facilities that allow them to accomplish their many responsibilities in a post-September 11 world.

In addition, by taking much of the burden off the inspection agencies and DHS, for the design, planning and construction of their inspection facilities, the Department has been able to spend its scarce resources on what it does best: inspect cargo, vehicles, and focus almost exclusively on their critically important law enforcement mission. There is no price tag for security on our bridges and border crossings, and

a vigorous, robust and engaged private sector can help enormously in enhancing the mission of both GSA and the inspection agencies that guard our borders.

MR. CHAIRMAN, one advantage we obviously have had is that we own a bridge over which more than 8,000 trucks cross each day, and therefore could move quickly to take action to construct facilities and propose infrastructure improvements to meet the goals of Customs and the other Federal agencies with jurisdiction on the Ambassador Bridge.

However, in El Paso, I understand that the city actually owns three of the four primary border crossings into Ciudad Juarez. Therefore, it would appear that the tables are set for a similar “partnership” with these Federal agencies, including GSA, to eliminate traffic delays, accelerate the construction of additional inspection booths, and negotiate increased operational times on your bridges. Specifically, we would suggest that a permanent Public-Private Sector Working Group be formed to meet regularly to examine:

- alterations to hours of operation at the Ysleta Bridge to keep that major bridge open longer in concert with busiest commercial crossing times;
- construction of additional inspection booths by the city and/or with private sector capital, to have them available to be staffed during peak periods of commercial and vehicular traffic; and
- consider postponing the proposed Yarborough Bridge until it can be quantified that enhancements to the existing bridges, including infrastructure changes, inspection booth construction and operational time adjustments have been exhausted. This could potentially save both the Federal Government and the El Paso community millions of dollars in construction and investment costs.

MR. CHAIRMAN, let me quickly say that the “partnership” with the private sector must be real, solid, and mutually supported by both the private sector and the executive branch. While the Government frequently establishes public-private partnerships, too often these “partnerships” are significantly skewed, with the Government setting the agenda and developing all the initiatives, which it then expects the private sector to support. The Department of Homeland Security 25 percent Border Capacity Challenge that was established by the Department of Homeland Security in the aftermath of September 11, was a true public-private partnership where members met monthly and genuinely considered all ideas—good and bad—that could help meet the goal. Indeed, most of the leadership and the good ideas came from the private sector, not the Government. All Government officials were open to private-sector suggestions, allowing the leveraging of entrepreneurial energies and private-sector resources to solve common problems.

At the Ambassador Bridge we far exceeded the goals set forth within the 25 percent challenge, achieving an actual reduction in wait times in excess of 70 percent. I am convinced that El Paso can achieve similar results through true public-private sector partnerships with GSA and the agencies that comprise the Department of Homeland Security.

The Ambassador Bridge continually embraces our private sector role in assisting Homeland Security, General Services Administration and all other agencies with a role at our Nation’s borders to embrace the dual goals of security and trade efficiency. It’s more than patriotism or profit motive: uniting the public and private sectors is the right thing to do, both in Detroit, El Paso and anywhere that legitimate trade and tourism cross our borders. I have attached a recent letter to the White House which communicated our continued willingness to offer entrepreneurial creativity to this process. I believe that this committee may benefit from the perspective contained in our efforts. (See Attachment—Nov. 21, 2007 letter from Ambassador Bridge to President Bush.)

#### CLOSING

In conclusion, MR. CHAIRMAN, I am convinced that El Paso and its private and public sectors, have a unique opportunity to engage each other to truly make a difference in both the enhancement of traffic flows and the maintenance of a rigorous security operation on all of the El Paso border crossings. With Federal appropriated funds at an all-time premium and with significant border crossing investment an uncertainty, the DIBC believes that the lessons learned at our bridge in Detroit, can be replicated in large part on the southwest border, beginning in El Paso, Texas.

We are most grateful for this opportunity to present testimony before this distinguished committee and look forward to continuing our dialog with leaders throughout the southwest border region on these critically important security and trade issues. Thank you, MR. CHAIRMAN, and our thanks to Representative Reyes for his leadership in organizing this vital hearing.

## ATTACHMENT

NOVEMBER 21, 2007.

President George W. Bush,  
*The White House, 1600 Pennsylvania Avenue, NW, Washington, DC 20500.*

DEAR MR. PRESIDENT: As the owners and operators of the Ambassador Bridge, we have seen a lot of changes throughout our history. Toady, almost \$1 billion in trade crosses our bridge each day and new equipment, technology, and inspection protocols have, without any doubt, dramatically increased security along our border. It is a significant achievement in protection of our country and peoples.

While Detroit is one of the largest and most important trade corridors, virtually all of the Nation's largest Ports of Entry (POE) along both the U.S.-Canadian and U.S.-Mexican border are now turning additional attention to meeting a second and equally important goal of speeding the flow of legitimate trade and travel across the border while maintaining security. Border communities and POEs on both borders are all reporting long lines of frustrated travelers, often spending hours waiting in long lines to cross the border. Our situation in Detroit is actually better, however, we share our colleagues' concerns at the border, long lines of idling trucks and cars represent increased costs, wasted fuel, higher air pollution, and wasted productivity. Chaos at the border created by long delays reduces the ability to secure our country.

Your administration has recently raised expectations and kindled hope by removing many of the bureaucratic impediments that, for too long, had artificially hindered sensible ideas to build more capacity and infrastructure at our POEs and corridors, the new GSA Administrator, Lurita Doan, has recently visited many of the largest POEs, including the Ambassador Bridge, and has challenged us to come up with immediate and practical solutions that we can work with the government to implement. She even asked us, when and where appropriate, to provide the additional funding that will be required to add more capacity and additional inspection lanes to meet the needs of legitimate trade and travel.

The Ambassador Bridge proudly accepts that challenge, and we are allocating \$50 million dollars [sic] to improve and expand the infrastructure used by the Federal agencies in Detroit. We are fully prepared and willing to not only fund and build the appropriate government facilities, but to lease those facilities to the applicable parties for whatever short or long-term time frame is deemed acceptable by all involved. It is a sensible idea that we are happy to fully support.

The Federal Highway Administration (FHWA) is aware of additional projects being undertaken by the Ambassador Bridge including the construction of a brand new six lane cable stay bridge as a replacement to our current four lane Ambassador Bridge. This new structure will include dedicated lanes for F.A.S.T. commercial vehicles. We have already expended \$500 million private dollars [sic] in property acquisition, demolition, environmental and engineering costs, and we expect to spend another \$500 million dollars [sic] in the construction of the new bridge.

Mr. President, we share your view that it is possible to improve security while simultaneously speeding the flow of legitimate trade and travel. We have proven our ability to deliver facilities necessary for the Department of Homeland Security to meet their mandates to secure our people and our country. Now we have the opportunity to replace inspection facilities designed and construction in 1985 for U.S. Customs to meet their mandates as duty collectors. These facilities were correct and adequate for the twentieth century. We now have the need to replace these facilities with new state of the art facilities designed and constructed for the purpose of homeland security and the efficient movement of legitimate trade and travelers. This opportunity at the Ambassador Bridge to build new facilities without interfering with current operations is only possible due to ongoing property acquisitions by our company. We would sincerely appreciate support from your administration to embrace this private effort to replace the 78-year-old bridge with a new state of the art cable stay bridge with wider, safer and separate special lanes for low-risk travelers and F.A.S.T. commercial lanes. We also, are positioned to develop the needed and necessary facilities for CBP. WHEN CAN WE START?

Please feel free to have appropriate parties contact my office to discuss any and all opportunities to continue to improve the number one border crossing in North America and do it with private investment.

Kindest regards,

DAN STAMPER,  
*President, Detroit International Bridge Company.*

## STATEMENT OF MIGUEL TERAN, COMMISSIONER, EL PASO COUNTY, EL PASO, TEXAS

DECEMBER 15, 2007

## INTRODUCTION

Chairman Thompson and Members of the committee, my name is Miguel Teran and I am the El Paso County Commissioner for Precinct 3. Thank you for allowing me to submit testimony as a part of this field hearing focusing on the challenges at America's ports of entry.

Chairman Thompson, it is good to see you in El Paso once again. Thank you for scheduling this field hearing and for your commitment to border communities. Your leadership of this committee has brought an increased focus to the problems at our ports of entry. Those of us who live and work here thank you and your staff for your assistance. Congressman Rodriguez, you have been here countless times since being elected and we thank you for your dedication to our issues. Congressman Perlmutter and Congressman Carney, welcome to El Paso. I hope your visit, while brief, provides you with some insight on the true state of affairs along the border. Chairman Reyes, thank you for your leadership on this issue and for bringing your colleagues to El Paso to hear first hand about the challenges we face along the border. El Paso County and the entire border region are fortunate to have you as our champion in Congress. You have spent much of your time in Congress trying to educate your colleagues about the unique nature of our border and the importance of our relationship with Mexico. It is fitting that this hearing is being held here in the Chamizal Memorial, where in 1963 the United States and Mexico finally settled a contentious boundary dispute after more than 100 years of animosity and tense relations. This memorial reminds us of what can be accomplished when we come together to discuss our problems, identify solutions, and work together to make life better for residents along the border.

## SUMMARY

My testimony will focus on the Tornillo-Guadalupe New International Bridge currently being developed in the eastern part of the county and how this new port of entry is an integral part of any solution designed to relieve the regional wait times and traffic congestion at our existing ports of entry. Eight years ago when the county started the process to get the new bridge approved, few people had any confidence that it would become a reality. They told me I was going after a dream, a chimera. As Congressman Reyes and Congressman Rodriguez know, the dream is becoming a reality thanks in large part to the commitment of the Federal Government. The committee is going to hear about a number of plans, projects, personnel recommendations, toll roads, and additional lanes at current ports of entry. I would like to stress that this project is a reality and will be completed well before most other plans to relieve congestion in the El Paso area.

Congress and the administration have shown their commitment to the Tornillo-Guadalupe New International Bridge by including \$4.3 million for the design of the Federal inspection facilities in the President's fiscal year 2008 budget and in the fiscal year 2008 appropriations bills. I know that it is unclear what the final appropriations picture will look like but I am encouraged by the progress we have made this year. We are anticipating similar budget and appropriations requests and support for \$50 million for the construction of the Federal inspections facilities in fiscal year 2010. This amount may change following the completion of the Program Development Study (PDS) now underway and due to be completed by February 11, 2008.

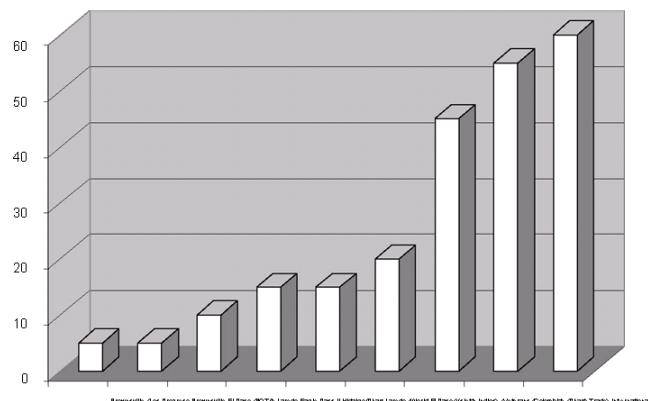
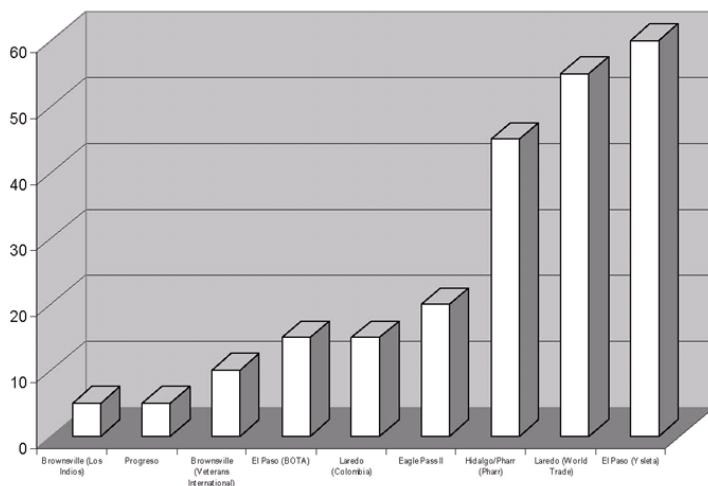
Once completed, the Tornillo-Guadalupe New International Bridge will relieve congestion at our current ports of entry in El Paso. By 2015, the new POE will handle substantial amounts of traffic through its linkage with key transportation corridors in the United States and Mexico. The new POE will handle large amounts of commercial traffic which will be directed to nearby warehouses and a new highway leading from the POE to Interstate 10. This new transportation investment will expedite traffic flows to the east and north, reducing waiting times, reducing congestion, and improving air quality throughout the region. The Tornillo-Guadalupe New International Bridge will be equipped with the latest technology to efficiently and securely inspect cargo and travelers.

## BACKGROUND

The economies of the El Paso and Ciudad Juarez are fused together in large part due to their proximity to each other, cultural similarity, and more recently due to integrated economies via NAFTA. Four international bridges serve both communities: the Paso Del Norte Bridge, the Stanton Street Bridge, the Bridge of the

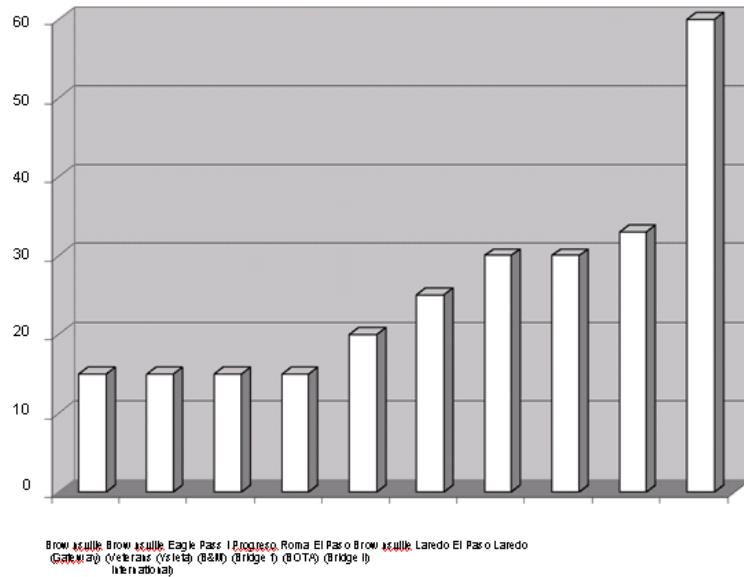
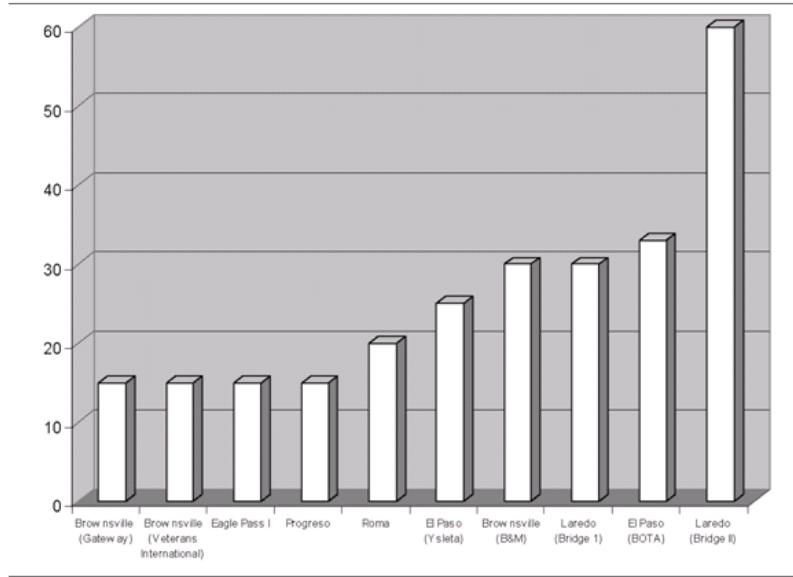
Americas, and the Zaragoza Bridge. A fifth international bridge, Fabens/Caseta, is 35 miles from downtown El Paso/Juarez, and provides limited international crossing access to a growing rural population in the region. This POE is soon to be replaced with a full-service bridge and POE facilities, the Tornillo-Guadalupe New International Bridge. El Paso's international bridges within the urbanized area are congested with vehicles heading from Mexico to the United States. As of October 2007, 664,620 commercial carriers used the Bridge of the Americas and the Zaragoza ports of entry to enter the United States. Passenger vehicles headed to the United States at the international bridges totaled 6,869,978 for the same time period. From 1990 to 2005, northbound commercial traffic in El Paso increased 45 percent whereas passenger traffic increased 7.7 percent for the same period. According to Customs & Border Protection, El Paso's commercial vehicles wait times at the end of November 2007 drifted upwards to 60 minutes to reach the primary inspection booth.

COMMERCIAL VEHICLE WAIT TIMES 11/30/07



Passenger vehicles, on the other hand, totaled 6,869,978 as of November 2007 and the reported wait times were 30-35 minutes.

## PASSENGER VEHICLES WAIT TIMES 11/30/07



It is evident that the existing international bridges within the urban area contribute to increased traffic congestion, environmental injustice, and costs of operation. Increased trade with Mexico as evidenced from the above growth patterns require additional infrastructure to be able to move goods and services across international lines. Inherent in building additional capacity for the bridges within the urban core is a need for raw land. Coupled with permitting, lost costs of opportunity

for retailers, and development costs, infrastructure additions to the existing bridges can be expensive.

#### NEW INTERNATIONAL BRIDGE AND PORT OF ENTRY FACILITIES

The County of El Paso is the U.S. sponsor of the Tornillo-Guadalupe New International Bridge. The county has worked diligently with local, State and Federal officials, the citizens of El Paso County, and Mexican officials at all levels of government to advance the development and construction of the Tornillo-Guadalupe New International Bridge. The Presidential Permit for the new international bridge was issued by the U.S. Department of State to the County of El Paso on March 16, 2005. The new bridge is designed for commercial trucks, passenger cars, and pedestrians. The Tornillo-Guadalupe New International Bridge will be equipped with the latest technology to efficiently and securely inspect cargo and travelers. It will be located approximately 650 yards upstream from the existing Fabens/Casetta POE. The Fabens/Casetta POE is not a full-service facility and its international bridge is structurally unable to handle commercial traffic. A major roadway will provide direct access between the international bridge and Federal port facilities to Interstate 10. A 200-foot right-of-way has already been acquired by the County of El Paso. The roadway is designed for two lanes in each direction and the county is now finalizing construction plans and bid documents to begin construction of two lanes from the POE to State Highway 20 (SH-20). Phase 2 is the continuation of the highway from SH-20 to Interstate 10 and will be jointly developed by the County of El Paso and the Texas Department of Transportation.

The decisions on the final cost and layout of the Federal facilities at the POE will be made by GSA in conjunction with the Department of Homeland Security (DHS) and other Federal tenants. Following the completion of a Program Development Study (PDS) now underway, the cost of construction will be determined. The PDS is projected to be completed by February 11, 2008. The information contained in the PDS will form the basis for the fiscal year 2010 budget and appropriations requests.

#### U.S. GOVERNMENT COMMITMENT

Congress and the administration have shown their commitment to the Tornillo-Guadalupe New International Bridge by including \$4.3 million for the design of the Federal inspection facilities in the President's fiscal year 2008 budget and in the fiscal year 2008 appropriations bills. I know that it is unclear what the final appropriations picture will look like but I am encouraged by the progress we have made this year. We are anticipating similar budget and appropriations requests and support for \$50 million for the construction of the Federal inspections facilities in fiscal year 2010. This amount may change following the completion of the Program Development Study (PDS) now underway and due to be completed by February 11, 2008.

#### GOVERNMENT OF MEXICO COMMITMENT

On the Mexican side, the State of Chihuahua has already acquired 76.4 acres for donation to INDAABIN (Instituto de Administración y Avalúos de Bienes Nacionales) necessary for Mexico's Federal facilities. Mexico's Secretaría de Comunicaciones y Transporte (SCT) has also issued a contract for all studies and preliminary design work required to meet all Federal requirements and to provide the basis for awarding a concession to build and operate the Mexican portion of the project. The study is to be completed by April 2, 2008.

#### EL PASO COUNTY COMMITMENT

The estimated cost to the county for their portion of the project is \$50 million. This includes the bridge and appurtenances at \$13.5 million. The cost of these items will be paid from Road and Bridge funds and county bonds backed by bridge toll revenue. The 6.3 miles of roadway from the POE to Interstate 10 is estimated at \$28 million. Funding is anticipated to come from El Paso County Road and Bridge funds, \$4.5 million (already approved) from the Texas Department of Transportation, and funds projected from SAFETEA-LU's Coordinated Border Infrastructure program (currently under final review). The County of El Paso is presently acquiring 135.5 acres of land adjacent to the Tornillo-Guadalupe New International Bridge for the construction of all components needed to operate the international port of entry. A tract of 108 acres will be donated to the General Services Administration (GSA) for the Federal inspection facilities as defined by a feasibility study completed by GSA with participation by El Paso County during March 2006.

## ESTIMATED TIMELINE

The County of El Paso has acquired most of the necessary right-of-way for construction of the connecting road. The county is also moving swiftly to acquire that portion of land where the bridge and inspection facilities will be located. Concurrently, the county expects to go out to bid for the roadway construction by early or mid-2008. Construction of the roadway is expected to take approximately 1 year. Once the roadway (Phase I) from the POE facilities to SH-20 is completed, and the construction agreement is in place, construction of the new international bridge will begin in tandem with construction of the U.S. Federal POE facilities in 2010-12.

## CONCLUSION

The County of El Paso wishes to thank the Members of the House Homeland Security Committee and specifically Chairman Thompson for holding this field hearing to address the complex problems at America's ports of entry. We would also like to once again thank Congressman Reyes and Congressman Rodriguez for their commitment to improving the quality of life for border residents. I hope I have demonstrated the critical role that the Tornillo-Guadalupe New International Bridge will play in any solution designed to relieve the regional wait times and traffic congestion at our existing ports of entry.

Mr. CUELLAR. At this time, I hear no further business, the committee stands adjourned.

[Whereupon, at 12:35 p.m., the committee was adjourned.]

## A P P E N D I X

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QUESTIONS FROM CHAIRMAN BENNIE G. THOMPSON FOR THOMAS S. WINKOWSKI, ASSISTANT COMMISSIONER, OFFICE OF FIELD OPERATIONS, CUSTOMS AND BORDER PROTECTION, DEPARTMENT OF HOMELAND SECURITY

*Question 1.* According to a GAO report released in November 2007, 52 CBP officers left the agency each 2-week pay period in fiscal year 2007, up from 34 officers in fiscal year 2005. Why is CBP losing so many qualified officers? Are you losing mostly new hires or are senior officers leaving too? What effect has this attrition had on CBP's staffing levels and its ability to accomplish its mission?

Answer. In fiscal year 2005, an average of 45 CBP officers departed the agency each pay period. This number increased to an average of 68 CBP officers departing the agency per pay period in fiscal year 2007. Most of the officers leaving CBP in fiscal year 2007 did so to work at other Federal agencies and law enforcement components. The number of employees that left CBP from entry positions was 404. The number of employees that left CBP from senior officer positions was 990. The number of employees that retired was 376, the majority of those retiring generally exited the agency from the Grade 11 or above level.

In GAO report number GAO-08-329T, the GAO provided testimony to Congress that summarized its study which examined the causes of staffing shortages in the field and their impact on CBP's mission. In that study, "CBP officials" cited the reasons for the staffing shortages as attrition due to retirements, officers receiving better benefits at other DHS components and Federal agencies, and new officers being unable to afford high cost-of-living locations. In addition, an Office of Personnel Management (OPM) Federal Human Capital Survey indicated that low job satisfaction is also a contributing factor to officer attrition.

GAO investigated the impact of the staffing shortages at 20 field offices and CBP's headquarters preclearance office and found that managers at 19 of the 21 offices cited examples of the effect of staffing shortages as some important CBPO activities not being fully addressed, new or expanded facilities that were not fully operational, and radiation portal monitors and other inspection technologies not being fully used. In addition, at 7 of 8 major ports that the GAO visited, officers and managers told the GAO that not having sufficient staff contributes to morale problems, fatigue, lack of backup support, and safety issues when officers inspect travelers.

CBP takes these issues very seriously and will continue to implement an aggressive hiring and recruitment strategy in order to continue to accomplish its mission of protecting the borders. CBP will also analyze attrition data from OPM's Human Capital Surveys and its employee satisfaction and exit surveys and develop some initial retention strategies by December 2008, with a more complete approach to follow by September 2009.

*Question 2.* Commissioner Basham was cited in a recent New York Times article as saying the delays at border entries were caused in part by security measures, but also due to border stations that are "aging, outmoded and facing surging traffic." What is necessary to upgrade these stations to help ensure both security and facilitation through America's ports of entry?

Answer. The rapid evolution in CBP's mission has left the land port of entry inspection facilities in need of modernization. Many of the inspection facilities housing CBP operations today struggle with explosive increases in traffic volume, changes in technology, and general deterioration. Some land ports of entry facilities were built more than 70 years ago and are under the extreme stress of high-volume traffic, and often under 24 hour-per-day, 365 day-per-year use.

Beginning in 2003, CBP launched a systematic review of the land port inspection facilities to determine the enhancements needed to sustain its evolving operational requirements. Based on the information gleaned from these assessments, CBP has identified repairs, enhancements and replacement projects across the entire land

port inventory. Since that time, CBP has annually sought funding to address the growing backlog of enhancements within this vital inventory.

Beginning in late 2006, CBP in partnership with GSA, determined that the time required to fully recapitalize the current inventory of inspection facilities would exceed four decades based on the current average annual funding.

*Question 3.* According to GAO, it takes approximately 7 years for a capital improvement to be completed at GSA-owned ports of entry and possibly longer if the port of entry is owned by a non-Federal entity. How would you describe CBP's relationship with GSA? Would border security be better served by having more ports of entry owned by CBP?

**Answer.** CBP operates and is the primary tenant at each of the ports of entry. However, ownership of the land port inspection facilities is divided among a variety of entities. Of the 163 facilities distributed along the northern and southern borders, CBP directly owns 43 facilities, GSA owns 97 facilities, and the remaining 23 facilities are owned by various State entities and public/private port authorities. This distribution of ownership presents a series of challenges for CBP to ensure that the infrastructure effectively supports its operations.

We continue to work in partnership with GSA and over the past few years CBP has reviewed various service-provider models to assess the best approach to implement a major capital improvement initiative for land ports of entry.

Given the current delivery capacity within CBP and GSA, CBP has identified a partnering approach with GSA as the most expedient method to modernize the facilities at a pace reflective of CBP's mission. This partnership is premised on key improvement objectives: reducing the cost and time that GSA requires to deliver land port enhancements and improving the performance of the resulting facilities.

Through this partnership, the agencies have jointly identified a new business model that describes the funding requirements and programmatic improvements needed to sustain and recapitalize the land port inspection facilities over the next decade. Over the coming fiscal years, both CBP and GSA plan to continue in partnership to implement this new model across the inventory.

Given the current limitations on CBP's internal capacity, the continued GSA-CBP partnership remains the most expeditious approach to port of entry modernization allowing both entities to exploit their respective areas of expertise; CBP's operational know-how and GSA's project management capabilities in the Federal buildings arena.

*Question 4.* According to GAO, CBP is in need of thousands of officers to carry out its mission. What short- and long-term solutions is CBP proposing to meet staffing needs? Is CBP planning to allow more field offices to hire above their budgeted staffing levels in order to account for expected attrition?

**Answer.** To meet staffing needs for CBP officers in the short- and long-term, CBP has implemented an aggressive hiring and recruitment strategy that includes focused hiring and a regular review of the staffing levels. This strategy takes into consideration current vacancies, attrition rates, and location specific initiatives. CBP selects recruitment events locations based on the current number of vacancies and the current applicant inventory. Some of the locations where recruitment events have taken place are Los Angeles/Long Beach, CA; Seattle, WA; Great Falls, MN; Grand Forks, ND; Calexico, CA; and the Virgin Islands. Recruitment events are planned for Vermont and Buffalo in conjunction with the CBP officer vacancy announcement for the open period February 25, 2008 through March 7, 2008. This hiring strategy has resulted in an increase of 978 CBP officers since 2004.

CBP's initial retention strategy will be completed by December 2008 and a more complete approach will be completed by September 2009 (mentioned in answer to Question 1).

Keeping attrition in mind, CBP plans to stay in line with its "staffing to budget" philosophy. CBP will continue to hire positions according to the level of funding available.

*Question 5.* CBP has the dual mission of preventing terrorists and terrorist weapons from entering the United States, while also facilitating the flow of legitimate trade and travel. How are 2- to 3-hour wait times at some of our ports of entry consistent with CBP's mission of facilitating the flow of legitimate traffic?

**Answer.** CBP's mission is preventing terrorists and terrorist weapons from entering the United States, while also facilitating the flow of legitimate trade and travel. Because we understand that the threat is present and the risks ever changing, we must remain ever vigilant in protecting the Nation's borders. While we do not wish to unnecessarily delay legitimate trade and travel, we face various constraints, such as facilities limitations, peak travel, and inclement weather, that impact wait times. CBP monitors wait times at both air and land border ports of entry, then posts this information so that the traveling public can make informed decisions about travel.

Additionally, at each port of entry CBP supervisors monitor peak travel periods to ensure that the correct number of primary booths are staffed to handle surges in traffic.

To address wait time issues at ports of entry, CBP has developed an 8-point plan to comprehensively look at the many factors affecting processing times. This plan includes the following: wait time measurement; baselining inspection processing times; determining port throughput; proper allocation of staff; facility needs and enhancements; maximizing trusted traveler programs; a review of existing policy related to inspections; and implementing an effective outreach program. CBP promotes various Trusted Traveler Programs, with the goal of segmenting and facilitating low-risk travel, which allows us to focus other resources on those areas which warrant further inspection/examination. CBP continually seeks better and smarter means of accomplishing our two missions. These means include layered enforcement strategies, improved processes, and state-of-the-art technologies. With continued support of the Congress, programs such as the Western Hemisphere Travel Initiative will result in smart technology and improved document security that will make our ports more secure and our inspectional processes more robust and efficient.

*Question 6.* Please provide the committee a description of the activities being conducted to implement the Border Partnership Action Plan in Division E, Title VI, § 606(b) of the Consolidated Appropriations Act for Fiscal Year 2008 (Pub. L. 110–161).

Answer. Response was not provided at the time of publication.

*Question 7.* Please provide a description of CBP's efforts to meet the January 31 deadline for the Port of Entry Infrastructure Assessment Study in Division E, Title VI, § 603 of the Consolidated Appropriations Act for Fiscal Year 2008 (Pub. L. 110–161).

Answer. Response was not provided at the time of publication.

*Question 8.* Please provide a status report and description of CBP's efforts to enter into a memorandum of understanding with Texas regarding the use of DHS-approved enhanced driver's licenses.

Answer. Response was not provided at the time of publication.

QUESTIONS FROM CHAIRMAN BENNIE G. THOMPSON FOR LURITA A. DOAN,  
ADMINISTRATOR, GENERAL SERVICES ADMINISTRATION

*Question 1.* I understand that the GSA uses a tool called the "Border Wizard" to calculate bridge wait times. Can you describe how this tool works and how it is used in your capital improvement assessments? Is the Border Wizard the most accurate tool available to calculate border wait times?

Answer. Response was not provided at the time of publication.

*Question 2.* According to CBP officials, the degree to which improvements will be made at land ports of entry and how long those improvements take is dependent upon available funding and the results of discussions with various stakeholders, such as GSA and private port owners. Which ports of entry are GSA's top priorities to improve, and why?

Answer. Response was not provided at the time of publication.

*Question 3.* CBP estimates that the cost of making capital improvements at land crossings totals about \$4 billion. How much funding does GSA generally receive for POE construction? Over the last 5 years, how has funding for POE construction compared to other GSA construction projects?

Answer. Response was not provided at the time of publication.

*Question 4.* GAO reports that it takes approximately 7 years to build a new piece of border infrastructure, from submitting a request for an infrastructure improvement through completion of the project. What accounts for this extraordinary delay for often desperately needed improvements? Are there any intermediate improvements that can be made outside the formal process?

Answer. Response was not provided at the time of publication.

QUESTIONS FROM CHAIRMAN BENNIE G. THOMPSON FOR COLLEEN M. KELLEY,  
NATIONAL PRESIDENT, NATIONAL TREASURY EMPLOYEES UNION

*Question 1.* GAO reports that not having sufficient staff contributes to morale problems, fatigue, lack of backup support, and safety issues. How bad is officer morale at CBP, and to what do you attribute the current state of morale?

Answer. The Federal Human Capital Survey released in 2007 shows that DHS received the lowest scores of any Federal agency on a Federal survey for job satisfaction, leadership and workplace performance. Of the 36 agencies surveyed, DHS ranked 36th on job satisfaction, 35th on leadership and knowledge management, 36th on results-oriented performance culture, and 33rd on talent management.

One of the most significant reasons for low morale at CBP is the continuing shortage of staff at the 367 ports of entry (POEs). Despite CBP's own staffing allocation models and a GAO report that states that CBP needs up to 4,000 additional CBP officers at the POEs, the President's fiscal year 2009 budget includes funding for only 234 additional CBP positions at land border POEs and 295 positions for Radiation Portal Monitoring staffing. This staffing increase requested is fewer than two additional CBP officers at each air, land and seaport. What steps does the Department plan to address the CBP officer staffing shortages outlined in CBP's port-by-port staffing allocation models? When does CBP expect to have full staffing of the U.S. Ports of Entry as specified in its staffing allocation models?

Another effect on morale of the CBP officer staffing shortages at the POEs is that the emphasis on passenger processing and reducing wait times results in limited staff available at secondary to perform those inspections referred to them. CBP officers are extremely concerned about this diminution of secondary inspection in favor of passenger facilitation at primary inspection since the creation of the Department of Homeland Security. NTEU urges the committee to authorize at least 2,000 CBP officer new hires in their fiscal year 2009 authorization bill to begin to address this staffing shortage as detailed in CBP's own staffing allocation model.

Another action that the House Homeland Security Committee and the full House took last year that will greatly improve morale was approval of the fiscal year 2008 DHS Authorization bill, H.R. 1684, that included a provision (Section 512) repealing the DHS Human Resources Management System—Title 5, Chapter 97. Despite Congress' clear intent to stop implementation of the failed DHS Human Resources Management System, however, DHS continues to persist in implementing these compromised personnel regulations. NTEU urges the committee to include this Title 5, Chapter 97 repeal provision in its fiscal year 2009 DHS Authorization bill.

*Question 2.* GAO found that some new CBP officers receive inadequate cross-training and receive as little as 2 weeks of on-the-job training rather than the recommended 12 to 14 weeks. What, if anything, is CBP doing to improve officer training? Do you believe that the current lack of adequate training contributes to increased wait times? How effective has CBP's "one face at the border" training initiative been?

**Answer.** With the implementation of the One Face at the Border initiative, the curriculum for new hires at the Federal Law Enforcement Training Center (FLETC) in Glynnco, Georgia has undergone major changes. Prior to the merger, INS trainees studied at FTETC for 65 days. Trainees from the former Customs Service had a 55-day course at FLETC. Unlike Customs and Immigration Inspectors who all attended basic Academy training at FLETC, Agriculture Inspectors have a different background; those Agriculture Inspectors who became CBP officers were required to complete the same basic training course as a new CBP officer hire.

New CBP officers receive 73 days of FLETC training on all three types of inspection. "Upon returning to their assigned port, they will be trained for the next year by a combination of classroom, computer-based, and on-the-job (OTJ) training." The most critical part of this training is the year of OTJ training to teach specialized information.

This OTJ training phase is not being adequately done. Many new CBP officers report that few of them have received extensive post-academy training yet are assigned to the primary passenger processing line. Inadequate mentoring and OTJ training make it difficult for CBP officers to become proficient in even one job while they are expected to be proficient at three.

The three disciplines' skill sets—immigration, customs, and agriculture are highly specialized and require in-depth training and on-the-job experience. Agriculture specialists have a science background, immigration officers are trained to recognize suspect documents and customs officers are trained to identify counterfeit goods, drug smugglers and look for suspect passenger behavior at the airports and suspect products at the ports.

CBP officers that have been given cross-training have reported to NTEU that training is inadequate in time, resources and mentoring. According to CBP, all cross-training has been provided via video, CD-ROM/Web, classroom instruction, on-the-job training, or a combination of these methods. With limited exceptions, all of the training is provided at the CBP officers' post-of-duty.

For legacy inspectors, the training both in class, computer-based and on-the-job is totally inadequate. According to CBP, all legacy Customs and CBP officers had mandatory training on Immigration Fundamentals. "It will be delivered during officers' normal tour of duty in the form of eight electronic 45-minute lessons, after which the employee will be tested to ensure comprehension. A passing grade on the review is a prerequisite to taking the training for Full Unified Primary inspections."

NTEU believes that inadequate training not only contributes to wait times at the POEs, but also undermines security. This is a typical story about this training from legacy inspectors:

"I took the immigration class in January 2005 and have not been in a booth since. That is until I was told 3 weeks ago to go upstairs and get in the booth. I told the supervisor that I could not do it because I do not remember the training as it had been almost a year. She told me that she would put me with another inspector who would watch me for about 30 minutes and then I should be good to go on my own. After speaking with the experienced legacy INS inspector in the booth about how I was doing she changed her mind when he told her I was screwing up everything. CBP must create a refresher class for us or we will wind up screwing up and getting fired. I feel we are being fed to the lions."

As with almost every issue of concern at the POEs, the root of the training problem can be traced to staffing shortages. There just isn't enough staff to adequately man the ports and allow CBP officers sufficient time away from their stations for training. Again, the solution is for the committee to authorize at least 2,000 CBP officer new hires in their fiscal year 2009 authorization bill to begin to address this staffing shortage as detailed in CBP's own staffing allocation model.

*Question 3.* In your testimony, you describe a number of "scheduling abuses" that have hindered the recruitment and retention of CBP officers. Can you describe some of the more egregious abuses that you have discovered? What has NTEU and in return, CBP, done to return some normalcy back to CBP officers schedule?

Answer. For the last 6 years, CBP has relied on its Revised NIAP (RNIAP) to run roughshod over an employee's right to be governed by sane scheduling practices that enable the agency to meet its many missions, yet at the same time recognizes both work and non-work employee needs. Whether the issue is canceling an employee's preapproved leave resulting in lost vacation moneys, forcing employees to work involuntary overtime at the expense of others who want to work the same assignment, or limiting bid and rotation opportunities to select employees, CBP justifies its scheduling practices by citing the RNIAP. While one would think that dismal attrition levels and embarrassing morale findings would cause CBP to reconsider this policy, it has not.

The most egregious of these scheduling abuses is the scheduling of "free doubles." NTEU has been informed that CBP Port management is regularly using this practice to address staffing shortages while at the same time cheating employees out of overtime pay. A "free doubles" situation occurs at the end of a 2-week pay period and the start of the next: the Agency schedules employees from 1600–2400 on the last day of the pay period and then 0001–0800 the next morning, i.e., the first day of the new pay period, such that officers work 16 hours straight, but are not eligible for overtime pay because they have not worked over 8 hours in 1 day or 40 hours in 1 week.

The Agency's position is that those two shifts are two distinct "work days" and thus not overtime, despite the fact that the employees are doing a double shift (16 hours straight).

Here's a brief list of other CBP problematic scheduling practices that violate 5 USC 6101 and the Customs Officer Pay Reform Act (COPRA):

1. In some ports, CBP routinely schedules officers to work staggered shifts within the same workweek. For instance, an officer might work 2 days 6–2, then 1 day 8–4, then 3 days 12–8. CBP does this to save overtime.
2. In the past, officers assigned to work a midnight shift would not be forced to work a spill-over overtime shift to a day shift. CBP vacated this long-standing agreement, and now forces midnighters to work forced day-shift overtimes. Curiously, CBP, citing safety concerns, determined that that it was too dangerous to have infighters proceed to the range, on overtime following a midnight shift, to qualify. To avoid the overtime, officers with permanent swing or midshifts are now forced to work 1 day on a day shift, on regular time when qualifying at the gun range.
3. If the employee is off for the holiday, 70 percent of which fall on a Monday or Tuesday, CBP is counting that holiday off as one of their normal regular days off for the week. Consequently, if an employee is normally scheduled weekends off (Saturday and Sunday), for instance, and has a Monday holiday off during a week, he/she will lose either their Saturday or Sunday regular day off for that week and be required to come in and work for regular time on that day.

NTEU recently won a major arbitration decision (attached)\* striking down as violations of Federal law and regulations the unfettered discretion of CBP managers to set and change employee work schedules at will and without regard to the agency's legal obligations. Citing RNIAP, CBP has engaged in near total refusal of CBP to engage in substantive discussions, let alone bargain, over any issue even remotely related to assignment of work, staffing numbers, shifts, and overtime excusals. This means that CBP employees have virtually no voice on local scheduling matters.

Recently, a mutually selected arbitrator found that CBP has violated long-standing, Government-wide laws and regulations, codified in Article 21, Section 3 of the National Agreement, concerning the proper scheduling of those CBP officers covered by COPRA. These rules include the requirements that:

- Employees receive 1-week notice of their shifts;
- Employees are scheduled so they receive 2 consecutive days off;
- Employees' schedules provide for uniform daily work hours for each day of the workweek; and
- Employees are scheduled regardless of whether a holiday falls within the workweek.

By law, CBP must follow these requirements unless it "would be seriously handicapped in carrying out its functions" or that "costs would be substantially increased."

In reaching her decision, the arbitrator rejected CBP's defense that RNIAP set the same scheduling standards as those required by the United States and the Code of Federal Regulations. In particular, the arbitrator rejected CBP's RNIAP defense that when supervisors followed its provisions and scheduled employees based on "operational needs" while considering "least cost," it really meant that CBP "would be seriously handicapped" and that "costs would be substantially increased" if it was not given unfettered discretion to set and change employee work schedules.

The arbitrator then held:

"I further reject the agency's argument that the extensive number of instances in the record where the agency changed the work hours of Customs officers from 1 day to the next, failed to provide consecutive days off, changed schedules during weeks with holidays to avoid overtime premium pay, and otherwise failed to provide the protections embodied in law and applicable regulations, actually met the standards . . . Indeed, the agency appeared to recognize as much when it issued a 'weekly muster' on January 1, 2007, emphasizing the employees' shifts or days off should not be changed 'unless there are *significant operational needs*' and that '*every effort should be made* to assign employees the same work hours throughout the basic workweek.' (emphasis in original)

Inasmuch as this national grievance was filed prior to the May 2007 certification of the new NTEU bargaining unit, the arbitrator's decision only covers those CBP officers that were in NTEU's bargaining unit prior to the recent union election. However, NTEU is exploring similar litigation based on our review of CBP's scheduling practices for the expanded bargaining unit.

CBP now has two choices. CBP will comply with the arbitrator's decision or CBP will file yet another appeal to yet another adverse legal decision.

NTEU would appreciate the committee's support for resolving this continued stalemate over CBP workplace scheduling abuses.

*Question 4.* What does it mean to CBP officers to have Law Enforcement Officer (LEO) status? How will LEO status benefit border security, in general?

Answer. The CBP officer enhanced retirement program that Congress approved and the President signed as part of the fiscal year 2008 omnibus spending bill has done much to improve CBP officer morale and has already proved to be a boon for retention of experienced CBP officers. This program (section 535 of the Act) provides a LEO retirement benefit for Customs and Border Protection (CBP) officers effective on July 6, 2008.

This legislation will aid CBP's continued recruitment and retention of the best and brightest officers and build a vigorous work force for the future. On a daily basis, CBP officers perform as frontline officers in support of our homeland security mission which is critical to our Nation. This recognition and retirement compensation package is well-deserved and long over-due. Since passage of the omnibus in December, NTEU has heard that scores of CBP officers have rescinded retirement and transfer requests to other Federal LEO positions in the Federal Government. CBP officers are extremely grateful to Congress for this recognition of their law enforcement activities at CBP.

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\* Attachment has been retained in committee files.

The President, however, in his fiscal year 2009 budget, requests that Congress vote to repeal the authorization of the just enacted CBP LEO program. Furthermore, he requests that Congress rescind the \$50 million funding needed to begin the program in July 2008.

NTEU has learned that CBP and the Office of Personnel Management (OPM) have prepared information and documents to share with CBP officers to inform them of how the program will work and of the upcoming opt-out decision they will need to make. The Office of Management and Budget (OMB), however, told both OPM and CBP that they cannot disseminate these materials to CBP officers at this time. CBP was unclear as to when OMB would give permission to release the materials to their employees. It is vital that Congress directs OMB to allow this program to go forward so that it can be implemented as stipulated in law by July 6, 2008.

*Question 6.* Please provide the committee with an analysis on the number of CBP officers you feel are required to carry out the agency's dual mission of security and commerce facilitation.

Answer. According to the former U.S. Customs Service's last internal review of staffing for fiscal years 2000–2002 dated February 25, 2000 also known as the 2000–2002 RAM, the Customs Service needed over 14,776 Customs Inspectors (an increase of 6,481 new hires) just to fulfill its basic mission—and that was before September 11.

Since the release of the U.S. Customs 2000–2002 RAM was released, the Department of Homeland Security was created and the U.S. Customs Service was merged with the Immigration and Naturalization Service and parts of the Agriculture Plant Health Inspection Service to create Customs and Border Protection (CBP) and given an expanded mission of providing the first line of defense against terrorism, in addition to making sure trade laws are enforced and trade revenue collected, while at the same time facilitating the flow of travel and trade.

According to GAO, with the merger of the three agencies' inspection forces, there are now approximately 18,000 CBP officers currently employed by CBP. Based on the expanded mission of the CBP officers, and based on the results of the 2000–2002 RAM that stated the U.S. Customs Service needed to hire over 6,000 new inspectors to address the expanded workload projected at that time, I believe that at least 22,000 CBP officers would be needed to have a robust and fully staffed force at our ports of entry.

In Section 402 of the SAFE Port Act of 2006, Congress mandated CBP to conduct a new Resource Allocation Model for the ports of entry. CBP renamed this model the Staffing Allocation Model (SAM). It is NTEU's understanding that CBP produced SAMs for all the ports of entry as well as a Nation-wide [sic].

CBP has deemed the SAM law enforcement sensitive, so NTEU has never seen or reviewed this information, however, the Washington Post reported that the CBP SAM concludes that CBP needs to hire 1,600 to 4,000 new CBP officers and Agricultural Specialists to adequately staff the Nation's air, sea and land ports of entry while allowing for contingencies, such as training. This number is in line with NTEU's estimation of CBP officer staffing needs based on our own research.

QUESTIONS FROM CHAIRMAN BENNIE G. THOMPSON FOR KATHLEEN CAMPBELL  
WALKER, PRESIDENT, AMERICAN IMMIGRATION LAWYERS ASSOCIATION

*Question 1.* As of January 31, 2008, CBP will no longer accept oral declarations of citizenship from Americans re-entering the United States at land ports of entry. What effect do you anticipate this new rule having on the local community? Do you believe CBP has the capacity to effectively and efficiently implement this new rule?

Answer. Response was not provided at the time of publication.

*Question 2.* In a recent New York Times article, Commissioner Basham said that border cities, which own several international bridges, need to invest in expanding entry points. How feasible is the Commissioner's solution for border communities? Can you describe what stakeholders in the city of El Paso are doing to address the long wait times?

Answer. Response was not provided at the time of publication.

*Question 3.* In your testimony, you provide a number of inspection improvements that could be implemented, from providing additional staffing to establishing a state-of-the-art methodology for determining current wait times. Which improvements should Congress and CBP make top priorities?

Answer. Response was not provided at the time of publication.

*Question 4.* In your written statement, you describe some difficulties in the use of registered traveler programs such as SENTRI, NEXUS, and FAST and indicate that the use of some of the cards is declining. How can CBP better utilize its registered traveler programs to facilitate legitimate cross border traffic?

Answer. Response was not provided at the time of publication.

*Question 5.* What affect do increasing wait times have on the culture and economy of El Paso?

Answer. Response was not provided at the time of publication.

*Question 6.* Please provide the committee with an analysis on the number of CBP officers you feel are required to carry out the agency's dual mission of security and commerce facilitation.

Answer. Response was not provided at the time of publication.

